

# BOISE IDAHO



## Zoning Code Rewrite Consolidated Draft of Full Zoning Code - Public Draft

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### CLARION

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# Chapter 11-01 General Provisions

## Commentary:

This Chapter includes general provisions that apply to the entire Code, such as the overall purpose, intent, applicability, and jurisdiction of the Code. This Chapter also includes transitional provisions that address how applications will be processed during the transition from the current development regulations to the new Code.

### 11-01-01. Title and Authority<sup>1</sup>

#### 1. Title

This Code shall be known as the "Boise Zoning Code" and is referred to in this document as the "Code."

#### 2. Authority

This Code is adopted under the authority for Local Land Use Planning established in Title 67, Chapter 65, of the Idaho State Statutes including, but not limited to §67-6520 ("the Local Land Use Planning Act"); Plats and Vacations established in Title 50, Chapter 13 and Preservation of Historic Sites established in Title 67, Chapter 46.

### 11-01-02. Effective Date

This Code shall become effective on \_\_\_\_.<sup>2</sup> All references in this Code to the "Effective Date of this Code" or to the "Effective Date" shall refer to that date unless otherwise stated.

### 11-01-03. Purpose<sup>3</sup>

This purpose of this Code is to:

1. Promote the public health, safety, and general welfare of present and future residents;
2. Bring about coordinated and efficient development that encourages affordable and fair housing, stimulates economic opportunity, and promotes diverse, inclusive communities with a variety of housing choices for residents;
3. Preserve and enhance natural resources, promote the use of environmentally-friendly development practices, and promote energy conservation and alternative energy production;
4. Protect the character of stable residential, institutional, business, employment, and natural areas;
5. Promote an integrated approach to land use and transportation planning to provide a safe and efficient transportation system for pedestrians, bicycles, transit, and vehicles;
6. Emphasize the importance of high-quality urban design in the built environment; and
7. Protect the City's historic resources and support the development of public spaces that promote community gatherings and cultural events.

<sup>1</sup> Current 11-01-01.

<sup>2</sup> Date to be filled in at the time of Adoption.

<sup>3</sup> Current 11-01-03 expanded to include additional content and policies from Blueprint Boise.

**11-01-04. Applicability<sup>4</sup>****1. Uniform Applicability**

- A.** It shall be unlawful to use any building, structure, or land or to erect, move, structurally alter, convert, extend, or enlarge any building or other structure except in conformity with the requirements established in the base zoning district, and in any applicable overlay zoning district, in which the structure, building, or land is located and in compliance with all applicable provisions of this Code.<sup>5</sup>
- B.** In addition to complying with all applicable provisions of this Code, no property shall be allowed to maintain an attractive or public nuisance at any time.

**2. Public Services Excepted**

This Code shall not limit or interfere with the temporary use of any property as a public voting place, or with the construction, installation, or operation of the following by any public agency or private corporation, when such construction is otherwise in conformity with all federal, state, county, and city regulations:

- A.** Public street or highway.
- B.** Poles, towers, wires, cables, conduits, vaults, laterals, pipes, mains, wells, valves, or any other similar distributing and transmitting equipment for telephone or other communications; electric power, gas, water, and sewer lines, provided that the installation shall conform when applicable with the rules and regulations of any federal or state commissions and agencies, or any other authorities having jurisdiction and subject to other city ordinance provisions, rules, and regulations; except that poles, towers, or similar installations of a height of 70 feet or greater are subject to the standards in Section 11-03-03.5.H, *Utility Facility, Minor*. Electrical substations are considered a major utility facility and are subject to the requirements of this Code.
- C.** Railroad right-of-way, excluding yards and stations.
- D.** Incidental appurtenances to any of the above.

**11-01-05. Area of City Impact<sup>6</sup>****1. Area of City Impact Boundary Map**

The Area of City Impact is the area designated on the Boise City Area of City Impact Boundary Map as amended, incorporated in this Code by reference. Copies are available for inspection at the Planning and Development Services Department.

**2. Annexation Area**

Boise City shall limit its annexation to those lands within its Area of City Impact. If Boise City wishes to annex lands outside of its Area of City Impact, it shall renegotiate its Area of City Impact Boundary with Ada County in accord with Idaho Code 67-6526(d) unless renegotiation is not required pursuant to Idaho Code 50-222, Annexation by Cities, Category A.

<sup>4</sup> Current 11-01-04.

<sup>5</sup> Replaces much more general statement if required compliance with the Code.

<sup>6</sup> Current 11-01-07.

### 3. Applicable Plan Policies and Ordinances

- A. The adopted Comprehensive Plan shall apply within the unincorporated part of the Boise Area of City Impact.
- B. The Zoning Ordinance set forth in Title 8 of the Ada County Code shall be used to implement the Comprehensive Plan within the Area of City Impact. All land use applications shall also comply with the provisions of this Chapter.
- C. The Boise City Uniform Street and Address Number Ordinance set forth in Section 7-4-1 of the Boise City Code shall apply to all property within the Area of City Impact. Street names and addresses shall be assigned by Boise City. Existing street names and addresses in the Area of City Impact, not in compliance with the Boise City Uniform Street and Address Number Ordinance at the time this Section goes into effect, shall not be changed until address changes are necessary for address continuity.
- D. The Boise City Impact Fee Ordinance set forth in Title 9, Chapter 2 of the Boise City Code shall be applicable within the Area of City Impact in accordance with the Agreement for the Collection of Boise City Park Impact Fees for Development in the Boise City Area of City Impact. Development of parks by Boise City within the Area of Impact shall be subject to the provisions of the agreement, adopted by Boise City and Ada County, and made a part of this Code by this reference.

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### 4. Coordination of Plan Amendments, Code Amendments, and Zoning Applications<sup>7</sup>

- A. At least 30 days prior to a Planning and Zoning Commission (PZC) hearing, all County and City amendments to their respective Comprehensive Plans and Zoning Ordinances that apply within the Boise City Area of City Impact shall be sent by the entity considering such amendment to the other entity. The City shall send all Code Amendments to the County.
- B. At least 30 days prior to any public hearing, all County applications for subdivisions, rezones, and conditional use permits within the Boise City Area of City Impact shall be sent to Boise City. Written comments and recommendations shall be sent to Ada County no later than 24 days after the referral is received. The City Council may direct that the PZC or staff review and comment on such applications.
- C. Applications for Subdivisions and Zoning Map Amendments within the Boise Area of Impact shall occur as a result of a request for annexation to Boise City; however, Ada County may consider such applications in those exceptions where annexation is not approved by Boise City or where the parcel on which such application is filed is not contiguous to Boise City and therefore cannot be annexed.

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### 5. Renegotiation

- A. In accordance with Idaho Code 67-6526(d), the Boise City Council or the Board of Ada County Commissioners may request to renegotiate any provision of this Section 11-01-05.5. Within 30 days of receipt of such written requests by each part, a meeting between the two jurisdictions shall occur.
- B. While renegotiation is occurring, the provisions of this Section shall remain in effect until this Chapter is amended or a substitute ordinance is adopted by Boise City and Ada County, in accordance with the notice and hearing procedures provided in Ada County and Idaho Codes, or until a declaratory judgment from the District Court is final. However, this Section or

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<sup>7</sup> Deleted repetitive text related to the Impact Fee Ordinance (3.D above) in Consolidated Draft.

stipulated portions of this Section shall be of no further force and effect if both jurisdictions so agree by mutually adopted resolution.

#### **11-01-06. Relationship to Other Laws and Regulations<sup>8</sup>**

##### **1. Other Laws**

- A.** All of the provisions of this Code shall be liberally construed in favor of the governing body and shall not be deemed to limit or repeal any other powers granted under state statutes. Where this Code imposes greater restrictions than that imposed by other law or by private restrictions, this Code shall prevail.
- B.** The stricter provisions of the Boise Air Terminal regulations, Central District Health, and other regulating ordinances or codes shall apply in the enforcement of this Code.

##### **2. Most Restrictive Regulations Govern**

- A.** Wherever the regulations this Code require a greater width or size of building setbacks, are more restrictive as to height of building or permit a lower number of stories, or require a greater percentage of lot to be left unoccupied, or impose standards that are more restrictive than are required by any other City ordinance or regulation, the provisions of this Code shall apply.
- B.** Notwithstanding Subsection 1., above, in the case of a conflict between the standards in an overlay district and another provision of this Code, the provisions of the overlay district shall apply.
- C.** Wherever the provisions of any other City ordinance or regulation require a greater width or size of building setbacks, or are more restrictive as to the height of buildings or permit a lower number of stories, or require a greater percentage of lot to be left unoccupied, or impose other standards that are more restrictive than are required by the regulations contained in this Code, the provisions of such ordinance or regulation shall apply.

#### **11-01-07. Relationship to Private Covenants<sup>9</sup>**

This Code is not intended to impair or interfere with other regulations of private restrictions on the use of land improvements and structures. The provisions of this Code shall be in addition to, and shall not be deemed to repeal, abrogate, or impair any other ordinance, regulation, easement, covenant, or deed restriction. Where this Code imposes greater restrictions than that imposed by private restrictions, this Code shall prevail. The City shall not have any obligation to enforce any private covenant or agreement unless it is a party to the covenant or agreement; if the City is a party to the covenant or agreement, enforcement shall be at the discretion of the City.

#### **11-01-08. Transition from Prior Zoning Code<sup>10</sup>**

- 1.** The enactment of this Code shall not terminate or otherwise affect rights, Variances, permits, and approvals acquired or authorized under prior Code.
- 2.** Except as stated in Subsection 3., where any development permit or approval required by this Code and any Building Permit required by the City has been issued for the construction of a building or structure, and for an authorized use and occupancy of that use, in accordance with the law prior to the Effective Date, the building or structure may be completed in conformance with

<sup>8</sup> Current 11-01-05.

<sup>9</sup> New.

<sup>10</sup> Current 11-01-02 Prior Rights and Permits. Wording clarified for consistency.



the approved plans and on the basis for which the development permit or approval and/or Building Permit had been issued, provided construction of the building or structure is commenced within 60 days of the effective date of the Building Permit and diligently pursued to completion.

3. Conditional Use Permit applications that have completed Concept Review<sup>11</sup> prior to the Effective Date shall be subject to the terms and conditions of this Code. Upon showing an undue hardship, an applicant may be allowed by the Planning and Zoning Commission to process such Conditional Use Permit applications under the terms and conditions of the previous Code.

#### **11-01-09. Severability<sup>12</sup>**

Each section, clause, and provision of this Code is declared severable. If a court of competent jurisdiction declares that any section, clause, or provision of this Code is invalid, the same shall not affect the validity of the remainder of this Code as a whole, or any other part of this Code, or the application of the provisions to other persons or circumstances, and the remainder shall continue in full force and effect.

<sup>11</sup> Replaces the term "concept plans." See the Common Procedures for more detail.

<sup>12</sup> Current 11-01-06.

## Chapter 11-02 Zoning Districts<sup>13</sup>

### Commentary:

General comments applicable to this Consolidated Draft:

- Throughout the draft there are footnotes that identify any changes from the current Zoning Code, or further commentary related to that particular provision.
- We generally use the term “Code” in place of “Title” or “Ordinance.”
- Many of the existing regulations that are carried forward relatively intact, were still revised for clarity and to improve user-friendliness, often without footnote.

### 11-02-01. Zoning Districts Established

#### Commentary:

**Generally.** This Chapter includes the basic standards describing the new lineup of zoning districts in Boise. As recommended in the Final Diagnostic and Solutions Report and as further edited by staff, the list of zoning districts was revised to rename some districts, consolidate other districts, and add some new districts to better support the kinds of places encouraged by Blueprint Boise.

**District organization.** Each zoning district includes a purpose statement, a table indicating what minimum and maximum dimensional standards apply to lots and buildings within that district, a table indicating other standards (e.g. use regulations and development standards) that may apply within the district, and an illustration of how those dimensional standards are applied to buildings and lots, and demonstrating the general character and context of that district in terms of bulk and layout.

**Graphics.** Each zoning district includes a representative photo that is intended to depict the general character of the zoning district. Each zoning district also includes an axonometric drawing and the labels on this drawing align with the lot and building standards tables described below.

**Zoning map conversion.** The City has created a conversion map showing how current zoning districts would convert based on the proposed revisions in this section. To view the conversion map, you can follow [this link](#) or navigate to the map via the Zoning Code Rewrite project webpage. The rules listed in Table 11-02.1 below were generally applied, but there may be some variation in how they were applied. To specific parcels in order to best reflect the new zoning district most similar to the current district.

### 1. Summary Table of Zoning Districts<sup>14</sup>

The incorporated area of Boise City is divided into the zoning districts show in Table 11-02.1, below.

**TABLE 11-02.1: BOISE ZONING DISTRICTS<sup>15</sup>**

| PROPOSED DISTRICTS                  | GENERAL ZONING MAP CONVERSION |
|-------------------------------------|-------------------------------|
| Residential Districts <sup>16</sup> |                               |

<sup>13</sup> All maps included in this Chapter will be updated to a consistent style at the time of the Adoption Draft.

<sup>14</sup> New.

<sup>15</sup> This table is included to assist in understanding the changes to the Code as they relate to the current zoning districts. The right hand column will be deleted before adoption of the Code.

<sup>16</sup> Measurements changed from edge of right-of-way to centerline in Consolidated Draft.

**TABLE 11-02.1: BOISE ZONING DISTRICTS<sup>15</sup>**

| PROPOSED DISTRICTS   | GENERAL ZONING MAP CONVERSION   |
|--|---|
| <b>R-1A</b> Residential: Large Lot                             | Within 1/8 mile of centerline from a Best-in- Class Transit Route: R-2<br><br>All Other: Same as existing (R-1A)  |
| <b>R-1B</b> Residential: Suburban                              | Within 1/8 mile of centerline from a Best-in- Class Transit Route: R-2<br><br>All Other: Same as existing (R-1B)  |
| <b>R-1C</b> Residential: Traditional                           | Within 1/8 mile of centerline from a Best-in- Class Transit Route: R-2<br><br>All Other: Same as existing (R-1C)  |
| <b>R-2</b> Residential: Compact                                | Same as existing (R-2 and R-1M)   |
| <b>R-3</b> Residential: Urban                                  | Same as existing (R-3)  |
| <b>Mixed-Use Districts</b>                                     |   |
| <b>MX-1</b> Mixed Use: Neighborhood                            | Previous C-1, L-O, N-O, PC not identified in rule for MX-3  |
| <b>MX-2</b> Mixed Use: General                                 | Previous R-O, N-O, L-O, C-1, C-2, C-3, C-4, T-1, and H-S zoning districts, not identified in rule for MX-3 or MX-4  |
| <b>MX-3</b> Mixed Use: Active                                  | Previous R-O, N-O, L-O, C-1, C-2, C-3, C-4, and T-1 zoning districts with frontage or within 1/8 of a mile of the edge of ROW from State St., Fairview St., Vista Ave., the Greenbelt, and Federal Way Trail, and<br>Previous R-O, N-O, L-O, C-1, C-2, C-3, and C-4 zoning districts located within 1/8 mile radius of a Blueprint Boise designated Community Activity Center or 1/2 mile of a Regional Activity Center |
| <b>MX-4</b> Mixed Use: Transit Oriented Development (TOD) Node | Previous R-O, N-O, L-O, C-1, C-2, C-3, C-4, and T-1 zoning districts located within 1/4 of a mile of the State & Whitewater, State & Collister, State & Glenwood, or State & Horseshoe Bend transit stations  |
| <b>MX-5</b> Mixed Use: Downtown                                | Previous C-2, C-3, C-4, C-5, and R-O zoning districts within the Downtown Planning Area   |
| <b>MX-U</b> Mixed Use: University                              | Previous U zoning district  |
| <b>Industrial Districts</b>                                    |   |
| <b>I-1</b> Industrial: Light                                   | Previous T-2 and M-1 zoning districts and<br>Previous A-1 land indicated as Industrial land on the Future Land Use Plan within the Airport Influence Area Overlay <sup>17</sup>   |
| <b>I-2</b> Industrial: Heavy                                   | Previous M-2 zoning district  |
| <b>Open Land/Institutional Districts</b>                       |   |
| <b>O-1</b> Open Land: Private                                  | Previous A-1 zoning district (privately owned)  |
| <b>O-2</b> Open Land: Municipal                                | Previous A-1 or A-2 zoning district (publicly owned)  |

<sup>17</sup> Revised to apply to A-1 lands in Consolidated Draft.

| TABLE 11-02.1: BOISE ZONING DISTRICTS <sup>15</sup>  |  |
|--|--|
| PROPOSED DISTRICTS   | GENERAL ZONING MAP CONVERSION                  |
| <b>O-3</b> Open Land: Managed  | Previous A-2 district                          |
| <b>Overlay Districts</b>   |  |
| <b>Character Protection Overlay Districts</b>  | <b>Conservation Overlay Districts</b>          |
| <b>HC-O</b> Hyde Park Character Overlay  | Previous CHD overlay district                  |
| <b>NC-O</b> Near N. End Character Overlay  | Previous NNE overlay district                  |
| <b>Neighborhood Overlay Districts</b>  |  |
| <b>BC-O</b> Big Sky Overlay  | Previous BSN overlay district                  |
| <b>SC-O</b> Sycamore   | Previous S overlay district                    |
| <b>Design Review Overlay Districts</b>   | <b>Design Review Overlay districts</b>         |
| Convert to building design standards applicable to the same use and update the Design Review process | Previous D overlay district                    |
|  | Previous DD overlay district                   |
| <b>CD-O</b> Capitol Blvd. Design Overlay   | Previous C overlay district                    |
| <b>HD-O</b> Historic Design Overlay  | Previous HD overlay district                   |
| <b>Sensitive Lands Overlay Districts</b>   | <b>Sensitive Lands Overlay Districts</b>       |
| <b>AI-O</b> Airport Influence Area Overlay   | Airport Influence Area (from Blueprint Boise)  |
| <b>BR-O</b> Boise River System Overlay   | Same as existing                               |
| <b>FP-O</b> Flood Protection Overlay   | Same as existing                               |
| <b>HS-O</b> Hillside Development Overlay   | Hillside and Foothills Development Regulations |
|  | <b>Specific Plan Districts</b>                 |
| <b>SP-1</b> Harris Ranch Specific Plan District  | Same as existing                               |
| <b>SP-2</b> Barber Valley Specific Plan District   | Same as existing                               |
| <b>SP-3</b> Syringa Valley Specific Plan District  | Same as existing                               |

## 2. Official Zoning Map

### A. Incorporation of Map<sup>18</sup>

- (1) The location and boundaries of zoning districts are shown upon the Official Zoning Map for Boise City.
- (2) The Official Zoning Map shall be maintained by and copies will be obtained through the Planning and Development Services Department and shall be made available for review and inspection.

<sup>18</sup> Carried forward current Section 11-04-01.2.A. and C.

**B. Rules for Interpretation of Boundaries<sup>19</sup>**

Wherever any uncertainty exists as to the boundary of a district, the following rules shall apply:

- (1) Where any boundary line is indicated as following a street, alley, waterway, railroad right-of-way or public way, it shall be construed as following the center line thereof.
- (2) Where a boundary line is indicated as approximately following a lot line, such lot line shall be construed to be the boundary line.

**C. Amendments to the Official Zoning Map**

Changes to the boundaries of any zoning district require an amendment to the Official Zoning Map per Section 11-05-05.4.J, *Zoning Map Amendment (Rezoning, including Planned Unit Development)*.

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**3. Organization of this Chapter<sup>20</sup>**

**A. Base Zoning Districts**

**(1) Content**

Sections 11-02-02 through 11-02-04 follow a common structure for each base zoning district in Boise. Each district includes the following:

- (a) A purpose statement describing the intended character of the district.
- (b) Chapters and sections of the Code that contain additional requirements for development in the district.
- (c) The basic lot and building standards that apply to development within that district such as lot size, setbacks, building height, and building form.
- (d) Other standards that apply to that district (as opposed to a specific use or type of development).

**(2) Graphics**

- (a) Each base zoning district is accompanied by at least one graphic depicting how the lot and building standards apply to lots and building forms within the respective district. Such graphics and illustrations are intended to represent the general character of development within the district but are not intended to identify specific projects or locations within that district.
- (b) The graphics and illustrations are not regulatory and not to be compared to the visual look of a proposed development.
- (c) The graphics do not reflect all standards from the Code that may apply to a project and are intentionally conceptual versus detailed.
- (d) Where an illustration is inconsistent with the respective table of lot and building standards or other text within this Code, the standards in the table and text shall apply.

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<sup>19</sup> Carried forward current Section 11-04-01.2.B.

<sup>20</sup> New Section providing general guidance on the contents of this Chapter. Current waiver provisions to extend zoning applicable to one part of a property to the entire property were not carried forward. Where a property is located in two or more different base or overlay zoning districts, and the property owner wants to make more or all of the project subject to just one base or one overlay zoning district, a Zoning Map Amendment pursuant to Section 11-05-05.4.J will be required,

**B. Overlay Districts**

- (1) In addition to the underlying base zoning district, some lands may be designated in one or more overlay districts. Where a property is assigned an overlay district, both sets of regulations apply, with those of the overlay controlling in case of conflict. An overlay district may apply additional requirements or allow exceptions to the standard regulations of the base zoning district.<sup>21</sup> Each overlay district title ends with "-O" (for overlay).
- (2) Section 11-02-07 identifies the overlay districts and establishes the purpose and applicable standards that modify the requirements of the underlying base zoning district.

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<sup>21</sup> Replaces current Section 11-05-01.1.



## 11-02-02. Residential Zoning Districts<sup>22</sup>

### 1. R-1A Residential: Large Lot<sup>23</sup>

#### A. Purpose<sup>24</sup>

The R-1A district is intended for predominantly residential uses on large “estate” style lots that allow low-density development and preserve an open character in which homes are separated by relatively large yards.



#### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

**TABLE 11-02.2: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

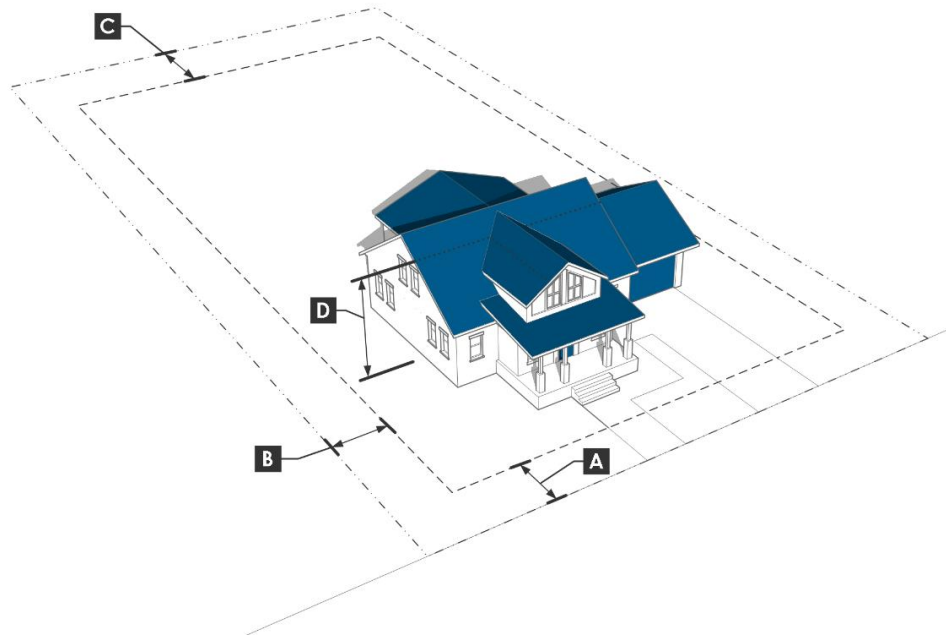
| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>22</sup> The Summary Tables of dimensions for each district match the dimensional tables in Section 11-04-03 *Lot and Building Forms and Dimensions*.

<sup>23</sup> Carried forward current R1-A district, unless otherwise noted.

<sup>24</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.3: R-1A LOT AND BUILDING STANDARDS**

### LOT STANDARDS [1]

|   |                      |
|---|----------------------|
| Lot Area (minimum) [2]                  | 20,000 sf.           |
| Lot Width (average)                     | 75 ft. <sup>25</sup> |
| Street Frontage (minimum) <sup>26</sup> | N/A                  |
| Open Space (minimum)                    | N/A                  |
| Density (maximum) [2][3]                | 2.1 units/acre       |

### SETBACKS (MINIMUM)

|          |                                      |                      |
|----------|--------------------------------------|----------------------|
| <b>A</b> | Front                                |                      |
|          | Front Entry Garage                   | 20 ft.               |
|          | Remainder of Structure <sup>27</sup> | 15 ft.               |
|          | Street Side [4]                      |                      |
|          | Side Street Entry Garage             | 20 ft.               |
|          | Remainder of Structure               | 20 ft.               |
| <b>B</b> | Interior Side [5]                    | 10 ft.               |
| <b>C</b> | Rear                                 | 20 ft. <sup>28</sup> |

### HEIGHT (MAXIMUM)

<sup>25</sup> Reduced from current 100 ft.

<sup>26</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>27</sup> New.

<sup>28</sup> Reduced from current 30 ft.

**TABLE 11-02.3: R-1A LOT AND BUILDING STANDARDS**

|  |                 |        |
|--|-----------------|--------|
| <b>D</b>   | Building Height | 35 ft. |
| <b>Notes:</b><br>[1] All Small Lots shall meet the standards in Section 11-04-03.3, <i>Residential Small Lots</i> . <sup>29</sup><br>[2] Minimum lot area and maximum density requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.<br>[3] Maximum density requirement shall not apply to properties using incentives earned pursuant to Section 11-04-03.7.D.<br>[4] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot. <sup>30</sup><br>[5] No interior side setback is required between Single-Family Attached Dwellings. <sup>31</sup> |                 |        |

<sup>29</sup> Reference new definition of Small Lot that includes Substandard Original Lots of Record.

<sup>30</sup> New.

<sup>31</sup> New, to clarify current practice.

## 2. R-1B Residential: Suburban<sup>32</sup>

### A. Purpose<sup>33</sup>

The R-1B district is intended to accommodate predominantly residential uses on medium- and large-sized lots as well as supportive civic and community uses.



### B. Cross-References to Other Applicable Code Sections

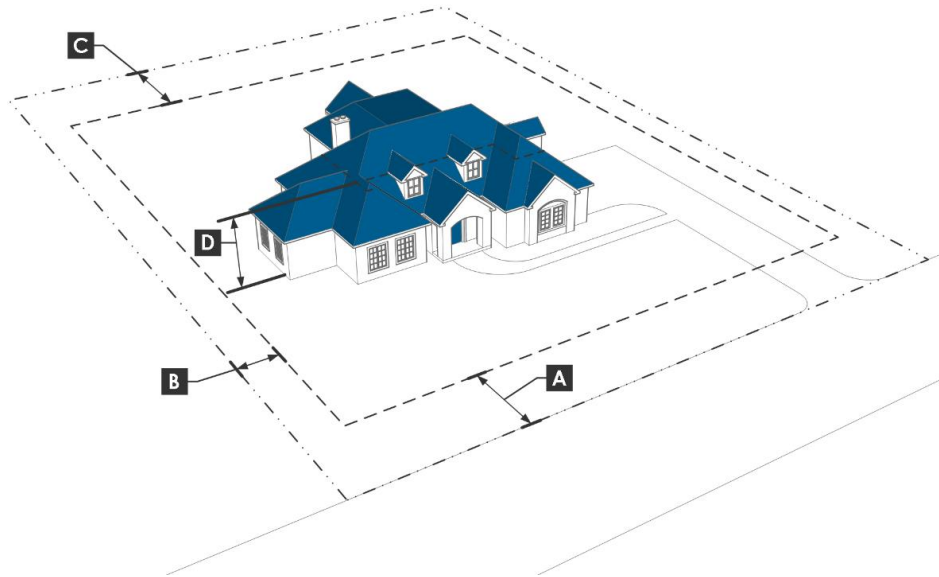
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

| TABLE 11-02.4: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|---|-------------------|
| CODE SECTION  | SECTION REFERENCE |
| Use Regulations   | Chapter 11-03     |
| Lot and Building Forms and Dimensions                             | 11-04-03          |
| Subdivision Standards   | 11-04-04          |
| Sensitive Lands   | 11-04-05          |
| Access and Connectivity   | 11-04-06          |
| Parking and Loading   | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                        | 11-04-08          |
| Building Design   | 11-04-09          |
| Exterior Lighting   | 11-04-010         |
| Signs   | 11-04-011         |

<sup>32</sup> Carried forward the current R-1B district, unless otherwise noted.

<sup>33</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.5: R-1B LOT AND BUILDING STANDARDS**

### LOT STANDARDS [1]

|   |                      |
|---|----------------------|
| Lot Area (minimum) [2]                  | 9,000 sf.            |
| Lot Width (average)                     | 50 ft. <sup>34</sup> |
| Street Frontage (minimum) <sup>35</sup> | N/A                  |
| Open Space (minimum)                    | N/A                  |
| Density (maximum) [2][3]                | 4.8 units/acre       |

### SETBACKS (MINIMUM)

|          |                                      |                      |
|----------|--------------------------------------|----------------------|
| <b>A</b> | Front                                |                      |
|          | Front Entry Garage                   | 20 ft.               |
|          | Remainder of Structure <sup>36</sup> | 15 ft.               |
|          | Street Side [4]                      |                      |
|          | Side Street Entry Garage             | 20 ft.               |
|          | Remainder of Structure               | 20 ft.               |
| <b>B</b> | Interior Side [5]                    | 10 ft.               |
| <b>C</b> | Rear                                 | 20 ft. <sup>37</sup> |

<sup>34</sup> Reduced from current 75 ft. to promote housing diversity and affordability.

<sup>35</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>36</sup> New.

<sup>37</sup> Reduced from current 30 ft.

**TABLE 11-02.5: R-1B LOT AND BUILDING STANDARDS**

**HEIGHT (MAXIMUM)**

|          |                 |        |
|----------|-----------------|--------|
| <b>D</b> | Building Height | 35 ft. |
|----------|-----------------|--------|

**Notes:**

- [1] All Small Lots shall meet the standards in Section 11-04-03.3, *Residential Small Lots*.
- [2] Minimum lot area and maximum density requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.
- [3] Maximum density requirement shall not apply to properties using incentives earned pursuant to Section 11-04-03.7.D.
- [4] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot.<sup>38</sup>
- [5] No interior side setback is required between Single-Family Attached Dwellings.<sup>39</sup>

<sup>38</sup> New.

<sup>39</sup> New, to clarify current practice.



### 3. R-1C Residential: Traditional<sup>40</sup>

#### A. Purpose<sup>41</sup>

The R-1C district is intended to provide predominantly residential uses on smaller-sized lots as well as supportive civic and community uses.



#### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

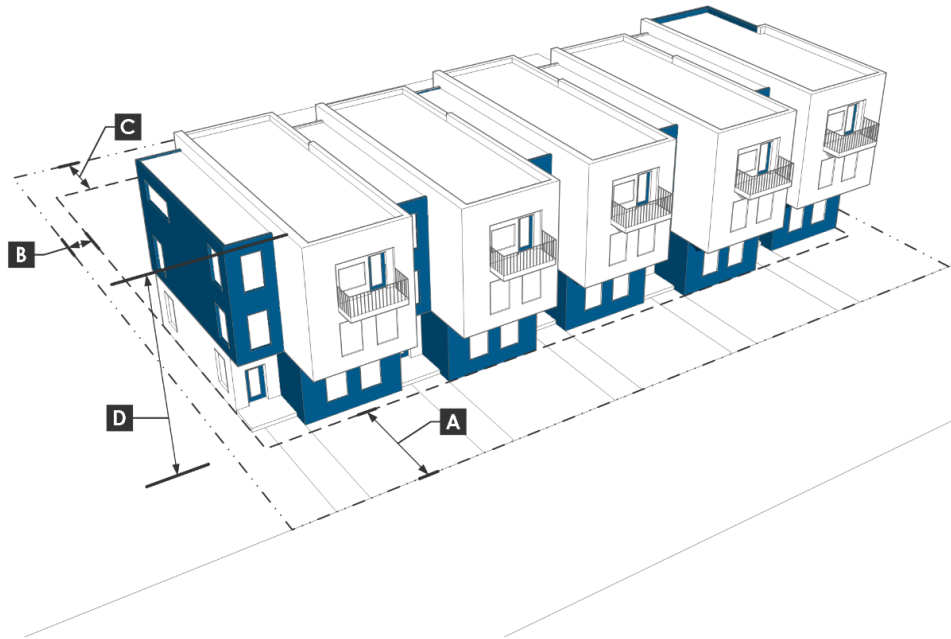
| TABLE 11-02.6: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|---|-------------------|
| CODE SECTION  | SECTION REFERENCE |
| Use Regulations   | Chapter 11-03     |
| Lot and Building Forms and Dimensions                             | 11-04-03          |
| Subdivision Standards   | 11-04-04          |
| Sensitive Lands   | 11-04-05          |
| Access and Connectivity   | 11-04-06          |
| Parking and Loading   | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                        | 11-04-08          |
| Building Design   | 11-04-09          |
| Exterior Lighting   | 11-04-010         |
| Signs   | 11-04-011         |

<sup>40</sup> Current R-1C district from current 11-04-03, unless otherwise noted.

<sup>41</sup> New.



## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.7: R-1C LOT AND BUILDING STANDARDS**

### LOT STANDARDS [1]

|   |                               |
|---|-------------------------------|
| Lot Area (minimum) [2]                  | 3,500 sf. <sup>42</sup>       |
| Lot Width (average)                     | 25 ft. <sup>43</sup>          |
| Street Frontage (minimum) <sup>44</sup> | N/A                           |
| Open Space (minimum)                    | N/A                           |
| Density (maximum) [2][3]                | 12.4 units/acre <sup>45</sup> |

### SETBACKS (MINIMUM)

|          |                                      |                      |
|----------|--------------------------------------|----------------------|
| <b>A</b> | Front                                |                      |
|          | Front Entry Garage                   | 20 ft.               |
|          | Remainder of Structure <sup>46</sup> | 15 ft.               |
|          | Street Side [4]                      |                      |
|          | Side Street Entry Garage             | 20 ft.               |
|          | Remainder of Structure               | 15 ft. <sup>47</sup> |

<sup>42</sup> Reduced from 5,000/7,000 sq. ft. in current Code to promote housing affordability while remaining generally consistent with the intended character of these areas.

<sup>43</sup> Reduced from current 50/70 ft. to promote housing affordability.

<sup>44</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>45</sup> Increased from current 8 units/acre.

<sup>46</sup> New.

<sup>47</sup> Reduced from 20 ft. for portions of the building other than side street-accessed garages.

**TABLE 11-02.7: R-1C LOT AND BUILDING STANDARDS**

|  |                   |                      |
|--|-------------------|----------------------|
| <b>B</b>   | Interior Side [5] | 5 ft.                |
| <b>C</b>   | Rear              | 15 ft.               |
| <b>HEIGHT (MAXIMUM)</b>  |                   |                      |
| <b>D</b>   | Building Height   | 40 ft. <sup>48</sup> |
| <b>Notes:</b><br>[1] All Small Lots shall meet the standards in Section 11-04-03.3, <i>Residential Small Lots</i> .<br>[2] Minimum lot area and maximum density requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.<br>[3] Maximum density requirement shall not apply to properties using incentives earned pursuant to Section 11-04-03.7.D.<br>[4] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot. <sup>49</sup><br>[5] No interior side setback is required between Single-Family Attached Dwellings. <sup>50</sup> |                   |                      |

<sup>48</sup> Increased from current 35 ft.

<sup>49</sup> New.

<sup>50</sup> New, to clarify current practice.

#### 4. R-2 Residential: Compact<sup>51</sup>

##### A. Purpose<sup>52</sup>

The R-2 district is intended to provide a flexible mix of compact detached, attached, and multifamily housing as well as civic, community, and limited commercial uses.



##### B. Cross-References to Other Applicable Code Sections

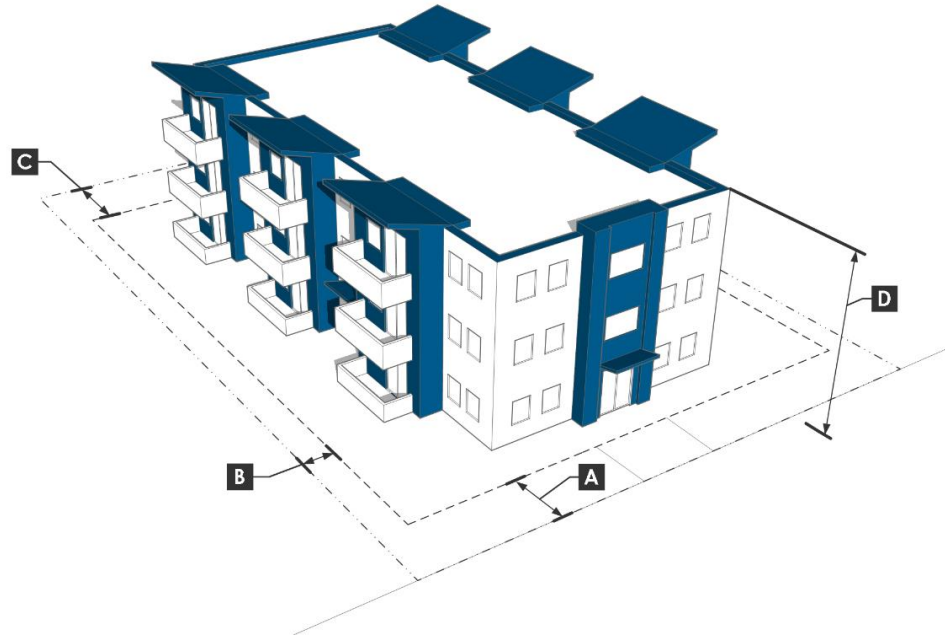
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

| TABLE 11-02.8: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|---|-------------------|
| CODE SECTION  | SECTION REFERENCE |
| Use Regulations   | Chapter 11-03     |
| Lot and Building Forms and Dimensions                             | 11-04-03          |
| Subdivision Standards   | 11-04-04          |
| Sensitive Lands   | 11-04-05          |
| Access and Connectivity   | 11-04-06          |
| Parking and Loading   | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                        | 11-04-08          |
| Building Design   | 11-04-09          |
| Exterior Lighting   | 11-04-010         |
| Signs   | 11-04-011         |

<sup>51</sup> Consolidated current R-2 and R-1M districts in Section 11-04-03, with revisions to allow a wider variety of smaller lots and innovative housing products to promote housing affordability.

<sup>52</sup> Revised and expanded.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.9: R-2 LOT AND BUILDING STANDARDS**

### LOT STANDARDS [1]

|   |   |
|---|---|
| Lot Area (minimum) <sup>53</sup> [2]    | Residential Uses, Except Multifamily<br>2,500 sf.<br>All Other Uses 5,000 sf. |
| Lot Width (average) <sup>54</sup>       | Residential Uses, Except Multifamily<br>20 ft.<br>All Other Uses 40 ft.       |
| Street Frontage (minimum) <sup>55</sup> | N/A   |
| Open Space (minimum)                    | 10% of lot <sup>56</sup>  |
| Density (maximum) <sup>57</sup>         | N/A   |

### SETBACKS (MINIMUM)

|                                      |                      |
|--------------------------------------|----------------------|
| <b>A</b> Front                       |                      |
| Front Entry Garage                   | 20 ft. <sup>58</sup> |
| Remainder of Structure <sup>59</sup> | 10 ft.               |

<sup>53</sup> Current minimum lot sizes ranging from 2,160 to 7,000 sf were not carried forward to promote housing diversity and affordability.

<sup>54</sup> Current minimum lot widths ranging from 18 to 79 ft. were not carried forward to promote housing diversity and affordability.

<sup>55</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>56</sup> Standard from R-1M district extended to current R-2 lands.

<sup>57</sup> Current 14.5 and 17 unit/acre maximum density not carried forward to promote housing diversity and affordability.

<sup>58</sup> 20 ft. front and side street setbacks for garages accessed by those streets now apply to both districts.

<sup>59</sup> New.

**TABLE 11-02.9: R-2 LOT AND BUILDING STANDARDS**

|                         |                                      |                        |
|-------------------------|--------------------------------------|------------------------|
|                         | Street Side [3]                      |                        |
|                         | Side Street Entry Garage             | 20 ft.                 |
|                         | Remainder of Structure <sup>60</sup> | 10 ft.                 |
| <b>B</b>                | Interior Side [4]                    | 5 ft. <sup>61</sup>    |
| <b>C</b>                | Rear                                 | 15 ft[5] <sup>62</sup> |
| <b>HEIGHT (MAXIMUM)</b> |                                      |                        |
| <b>D</b>                | Building Height                      | 45 ft. <sup>63</sup>   |

**Notes:**

- [1] All Small Lots shall meet the standards in Section 11-04-03.3, *Residential Small Lots*.  
[2] Minimum lot area requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.  
[3] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot.<sup>64</sup>  
[4] No interior side setback is required between Single-Family Attached Dwellings.<sup>65</sup>  
[5] Reduced to 5 ft. when alley present.<sup>66</sup>

<sup>60</sup> New.

<sup>61</sup> 0 ft. interior standard not carried forward, but still applies to attached single-family attached development.

<sup>62</sup> Height-based rear not carried forward.

<sup>63</sup> Increased from current 35 ft.

<sup>64</sup> New.

<sup>65</sup> New, to clarify current practice.

<sup>66</sup> Reduced alley setback for current R-1M district extended to current R-2 lands.

## 5. R-3 Residential: Urban<sup>67</sup>

### A. Purpose

The R-3 district is intended to provide predominantly residential development near retail, employment, transit, and other concentrated uses, as well as supportive civic, public, institutional uses, and limited commercial uses.



### B. Cross-References to Other Applicable Code Sections

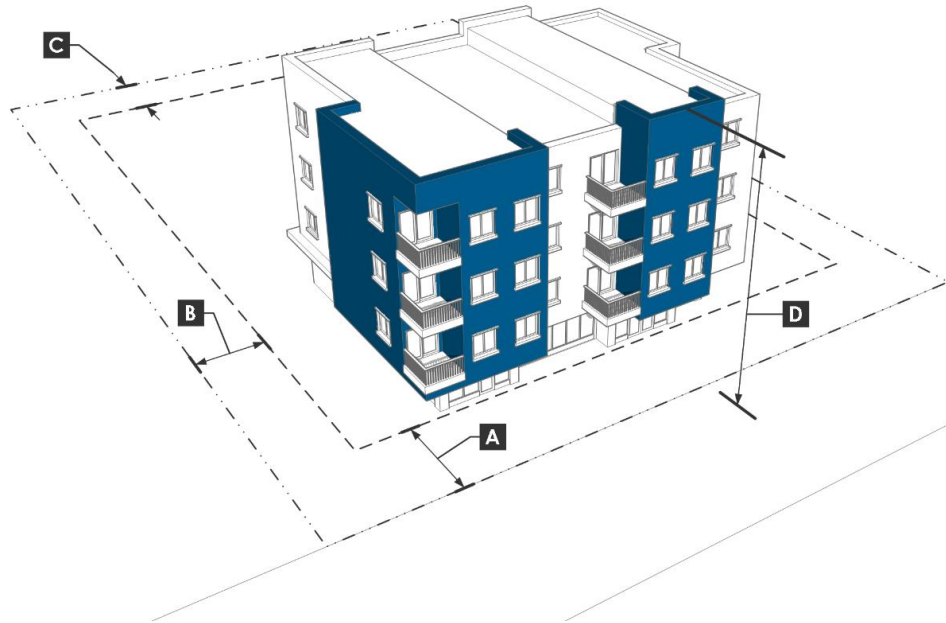
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

**TABLE 11-02.10: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>67</sup> Carried forward current R-3 district, Section 11-04-03.1.D, unless otherwise noted.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.11: R-3 LOT AND BUILDING STANDARDS**

### LOT STANDARDS [1]

|   |  |
|---|--|
| Lot Area (minimum) <sup>68</sup> [2]    | Single-Family Attached<br>1,500 sf.<br>All Other Residential Uses<br>2,000 sf.<br>All Other Uses 5,000 sf. |
| Lot Width (average) <sup>69</sup>       | Single-Family Attached 15 ft.<br>All Other Residential Uses<br>20 ft.<br>All Other Uses: 40 ft.            |
| Street Frontage (minimum) <sup>70</sup> | N/A  |
| Open Space (minimum)                    | 10% of lot <sup>71</sup>   |
| Density (maximum)                       | N/A  |

### SETBACKS (MINIMUM)

|                    |                      |
|--------------------|----------------------|
| <b>A</b> Front     |                      |
| Front Entry Garage | 20 ft. <sup>72</sup> |

<sup>68</sup> Current 5,000/7,000 sf minimum lot sizes for interior/corner lots were not carried forward promote housing diversity and affordability.

<sup>69</sup> Reduced from 50/70 ft. to promote housing diversity and affordability.

<sup>70</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>71</sup> New.

<sup>72</sup> Clarifies that 20 ft. street setbacks apply to garages accessed by either the front or side street.



**TABLE 11-02.11: R-3 LOT AND BUILDING STANDARDS**

|                         |                                      |                          |
|-------------------------|--------------------------------------|--------------------------|
|                         | Remainder of Structure <sup>73</sup> | 10 ft.                   |
|                         | Street Side [3]                      |                          |
|                         | Side Street Entry Garage             | 20 ft.                   |
|                         | Remainder of Structure <sup>74</sup> | 10 ft.                   |
| <b>B</b>                | Interior Side [4]                    | 5 ft. <sup>75</sup>      |
| <b>C</b>                | Rear                                 | 15 ft. [5] <sup>76</sup> |
| <b>HEIGHT (MAXIMUM)</b> |                                      |                          |
| <b>D</b>                | Building Height                      | 50 ft. <sup>77</sup>     |

**Notes:**

[1] All Small Lots shall meet the standards in Section 11-04-03.3, *Residential Small Lots*.

[2] Minimum lot area requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.

[3] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot.<sup>78</sup>

[4] No interior side setback is required between Single-Family Attached Dwellings.<sup>79</sup>

[5] Reduced to 5 ft. when alley present.

<sup>73</sup> New.

<sup>74</sup> New.

<sup>75</sup> Additional 5 ft. setbacks for buildings over one story not carried forward.

<sup>76</sup> Additional 5 ft. setback for buildings over one story was not carried forward. Additional setback for buildings over two stories was reduced from 10 ft.

<sup>77</sup> Increased from current 45 ft.

<sup>78</sup> New.

<sup>79</sup> New, to clarify current practice.

## 11-02-03. Mixed-Use Zoning Districts

### Commentary:

Blueprint Boise places significant emphasis on the creation of walkable, mixed use centers that can serve as gathering spaces and focal points to provide needed services and retail at key locations near residential neighborhoods. The plan calls for activity centers of different scales, with larger ones located and allowing development at densities that can support transit ridership. This Chapter recommends the creation of five mixed-use zoning districts scaled from the neighborhood level to downtown. Several of the districts are intended to be applied within a certain proximity to major commercial corridors, activity centers, or along transit routes. The current U (University) district is generally carried forward and relabeled as a mixed-use district because it is proposed to allow residential uses related to the university.

**MX-1:** The new Mixed-Use Neighborhood district is intended to accommodate low-density mixes of residential, office, and neighborhood-friendly retail (non-destination) uses with residential-scale building heights (usually 45 feet or less).

**MX-2:** The new Mixed-Use General district is intended to be used in locations for properties that are not identified in the conversion rule for MX-3 and MX-4 and to accommodate a mix of office, commercial, institutional, and residential uses at a scale designed to serve community needs broader than those of nearby neighborhoods.

**MX-3:** The new Mixed-Use Active district is generally designed for properties within 1/8 of a mile of the centerline<sup>80</sup> from State St., Fairview St., Vista Ave., the Greenbelt, and Federal Way Trail, and within a radius of a Blueprint Boise designated Community Activity Center (1/8 mile), or a Regional Activity Center (1/2 mile). It is intended to provide opportunities for a mix of office, commercial, institutional, and residential uses to support active modes of transportation.

**MX-4:** The new Mixed-Use Transit Oriented Development Node district is designed for properties that are located within 1/4 of a mile of an identified transit station (State & Whitewater, State & Collister, State & Glenwood, and State & Horseshoe Bend) to provide opportunities for a compact mix of office, commercial, institutional, and residential uses to support transit.

**MX-5:** This new Mixed Use Downtown district is designed for properties within the Downtown Planning Area as identified in Blueprint Boise. It is intended to provide for activities conducive to a compact, concentrated, and walkable urban downtown mixed-use center.

**MX-U:** This is a conversion of the current U (University) district more accurately labeled as a mixed-use district.

Due to the extent of consolidation of current Office, Commercial, and Special Purpose districts within each of the conversion rules (described in detail in Section 11-02-01), the MX-2, MX-3, and MX-4 districts do not include footnotes describing how the proposed dimensional standards differ from current standards. Generally, the lot and building standards for these districts were drafted to carry forward the more flexible standards available in the applicable current zoning districts to help direct development where there is planned public investment.

<sup>80</sup> Measurements changed from edge of right-of-way to centerline in Consolidated Draft.

## 1. MX-1 Mixed-Use Neighborhood<sup>81</sup>

### A. Purpose<sup>82</sup>

The MX-1 district is intended to provide opportunities for a mix of neighborhood-serving office, small-scale commercial, institutional, and residential uses. It is intended to facilitate convenient walkable access to these services while fostering pedestrian-oriented design and the creation of neighborhood centers.



### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

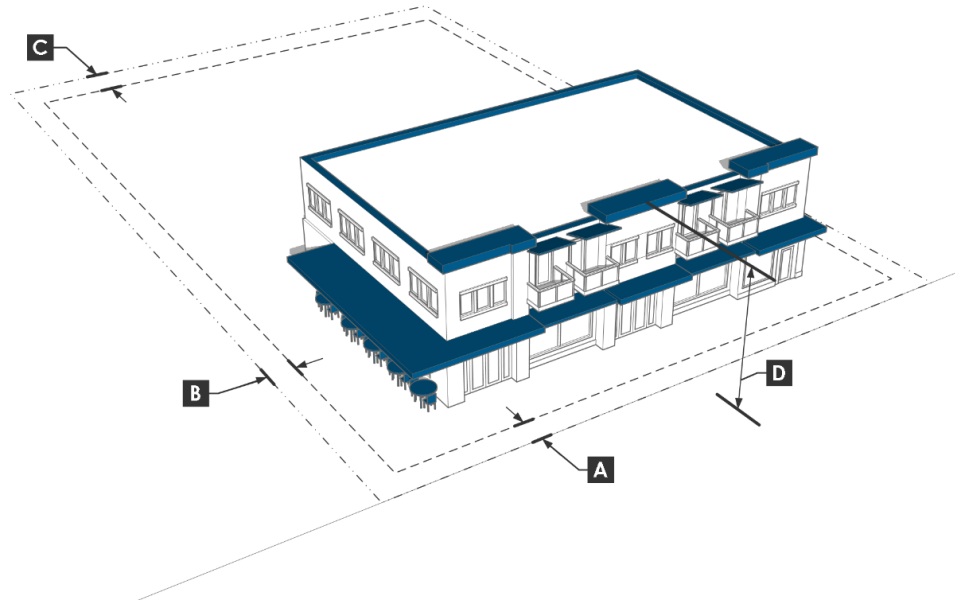
**TABLE 11-02.12: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>81</sup> Consolidated current N-O, L-O, C-1, and PC district parcels not identified in conversion rule for MX-3.

<sup>82</sup> New. Carried forward some content from C-1 and PC purpose statements (11-04-05.1.A. and 11-04-07.2.A.).

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.13: MX-1 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>83</sup>

|                            |                   |
|----------------------------|-------------------|
| Lot Area (minimum)         | N/A <sup>84</sup> |
| Lot Width (average)        | N/A <sup>85</sup> |
| Street Frontage (minimum)  | N/A <sup>86</sup> |
| Floor Area Ratio (maximum) | N/A <sup>87</sup> |

### BUILDING SETBACKS (MINIMUM/MAXIMUM)

|          |               |                         |
|----------|---------------|-------------------------|
| <b>A</b> | Front         | Min 0 ft.<br>Max 20 ft. |
|          | Street Side   | Min 0 ft.<br>Max 20 ft. |
| <b>B</b> | Interior Side | Min 0 ft.               |
| <b>C</b> | Rear Yard     | Min 10 ft.              |

### PARKING SETBACKS (MINIMUM)

<sup>83</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>84</sup> Minimum lot sizes from included districts ranging from 7,000 sf to 1,000 sf per dwelling units were not carried forward as unnecessary.

<sup>85</sup> Minimum lot widths from included districts ranging from 50 to 70 feet were not carried forward as unnecessary.

<sup>86</sup> Reduced from 30 ft.

<sup>87</sup> Maximum dwelling unit per acre density limits ranging from 14.5 to 43.5 du/ac from included office and special purpose districts, and maximum FAR of 1.5 for residential uses in current C-2, C-3, and C-4 districts, were not carried forward because they tend to increase housing costs. Development intensity would now be governed by building envelopes.

**TABLE 11-02.13: MX-1 LOT AND BUILDING STANDARDS**

|                         |  |                      |
|-------------------------|--|----------------------|
|                         | Front  | 20 ft. <sup>88</sup> |
|                         | Street Side                                  | 20 ft. <sup>89</sup> |
|                         | Interior Side                                | 5 ft. <sup>90</sup>  |
|                         | Rear   | 5 ft. <sup>91</sup>  |
|                         | Any Yard Adjacent to Interstate or Connector | 10 ft. <sup>92</sup> |
| <b>HEIGHT (MAXIMUM)</b> |  |                      |
| <b>D</b>                | Building Height                              | 45 ft. <sup>93</sup> |

#### D. Form and Layout Standards<sup>94</sup>

##### (1) Applicability

- (a) When the MX-1 district is applied to lands that have not previously been developed, the development shall comply with this Section 11-02-03.1.D.
- (b) When the MX-1 district is applied to lands that have previously been developed, the redevelopment shall comply with this Section 11-02-03.1.D to the maximum extent practicable if it involves one or more of the following:
  - i. An increase in the total site area occupied by structures;
  - ii. An increase in the total gross square footage of structures; or
  - iii. An intensification of land use, as determined by the Planning Director.
- (c) In the event of a conflict between these provisions and any provision in Chapter 11-03, *Use Regulations* or Chapter 11-04, *Development and Design Standards*, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

##### (2) Standards for All Development

##### (a) Active Use Required<sup>95</sup>

Within each contiguous area of land zoned MX-1 that is under common control or ownership after the Effective Date, at least 60 percent of the approved ground floor street frontage shall be occupied by uses that are in active use by occupants or users of the building or development, or by the general public. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that are not accessible from the street frontage.<sup>96</sup>

<sup>88</sup> 10 ft. minimum for C-1 and 0 ft min for PC were not carried forward.

<sup>89</sup> 10 ft minimum for C-1 and 0 ft. min for PC were not carried forward.

<sup>90</sup> Current L-O and N-O standards are now applied to current C-1 and PC lands.

<sup>91</sup> Current L-O and N-O standards are now applied to C-1 and PC; different PC standards for surface lots and garages were not carried forward.

<sup>92</sup> Current L-O and N-O standards are now applied to C-1 and PC.

<sup>93</sup> 45 ft. height limit in L-O and 50 ft. height limit in PC near large roads were not carried forward.

<sup>94</sup> New, but replacing the very detailed street orientation standards in the current (little used) PC district with simpler standards to require pedestrian friendly design while allowing significant flexibility for architects and site designers.

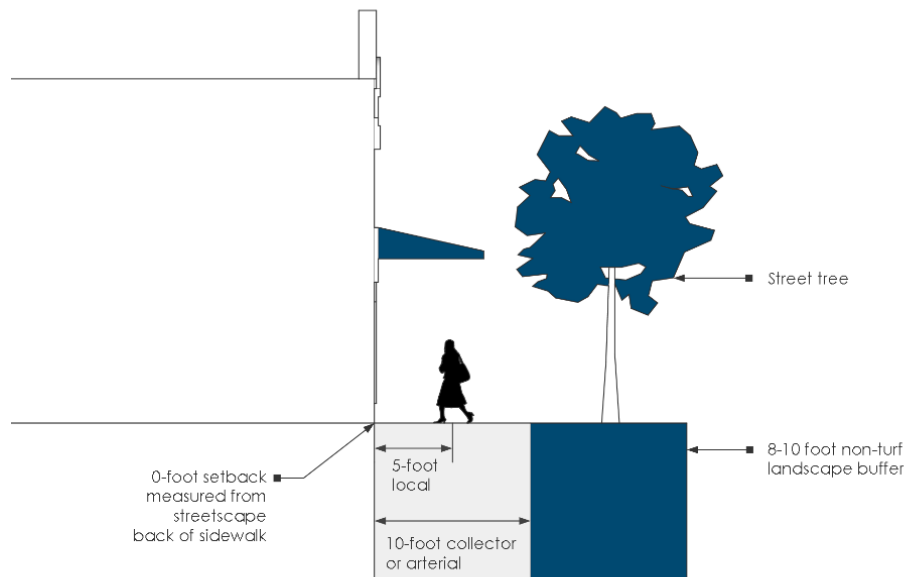
<sup>95</sup> Revised from "Mixed-Use" in Consolidated Draft.

<sup>96</sup> New to Consolidated Draft. Aligned requirement with the language included in the Use-Specific Form Standards.

**(b) Streetscape Standards**

All development shall comply with the following streetscape standards, which shall supersede any inconsistent dimensional standards in Section 11-04-06, *Access and Connectivity*.

- i. Each frontage on a local street shall include a detached sidewalk at least five feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.
- ii. Each frontage on a collector or arterial street shall include a detached sidewalk at least 10 feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.1. MX-1 Streetscape Standards**

**(3) Additional Standards for Development Over 10,000 Square feet**

Each development containing more than 10,000 square feet of contiguous land area under common control or ownership shall contain the following elements:

**(a) Amenities<sup>97</sup>**

An amenity feature that complies with one or more of the following standards:

- i. A landscape feature containing at least 200 square feet of area and a minimum width of five feet, or 10 feet if trees are included. Features may include enhanced landscaping areas, lighting, water, art, and/or provisions for seating; or

<sup>97</sup> Revised in Consolidated Draft to allow additional flexibility in site design.

- ii. An outdoor gathering area containing at least 400 square feet of area, that is clearly visible from an adjacent street, with seating for patrons; or
- iii. Another site feature that improves the pedestrian and/or bicyclist experience, as determined by the Director.

**(b) Connectivity**

At least one pedestrian and one vehicle connection to the local street system in the adjacent neighborhood(s), that shall permit residents of such neighborhood(s) to enter the district without using a collector or an arterial street.

**(c) Parking**

No surface parking spaces may be located between the front facade of the building and any street adjacent to the property.



## 2. MX-2 Mixed-Use: General<sup>98</sup>

### A. Purpose<sup>99</sup>

The MX-2 district is intended to provide opportunities for a mix of office, commercial, institutional, and residential at a scale designed to serve community needs broader than those of nearby neighborhoods.



### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

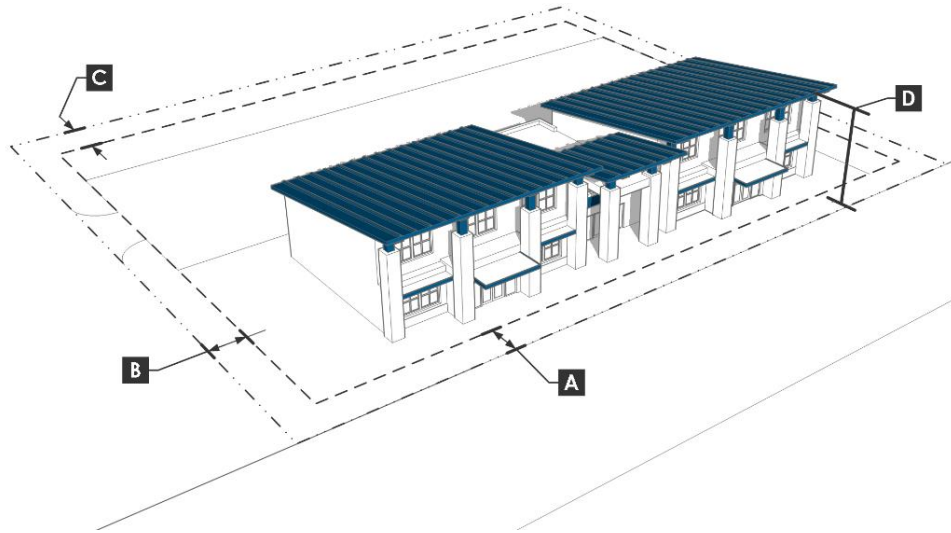
**TABLE 11-02.14: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>98</sup> New. Consolidated current R-O, N-O, L-O, C-1, C-2, C-3, C-4, T-1 and H-S zoning districts not identified in the conversion rule for MX-3 and MX-4.

<sup>99</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.15: MX-2 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>100</sup>

|  |                            |     |
|--|----------------------------|-----|
|  | Lot Area (minimum)         | N/A |
|  | Lot Width (average)        | N/A |
|  | Street Frontage (minimum)  | N/A |
|  | Floor Area Ratio (maximum) | N/A |

### BUILDING SETBACKS (MINIMUM/MAXIMUM)

|          |               |                         |
|----------|---------------|-------------------------|
| <b>A</b> | Front         | Min 0 ft.<br>Max 20 ft. |
|          | Street Side   | Min 0 ft.<br>Max 20 ft. |
| <b>B</b> | Interior Side | Min 0 ft.               |
| <b>C</b> | Rear Yard     | Min 10 ft.              |

### PARKING SETBACKS (MINIMUM)

|  |  |        |
|--|--|--------|
|  | Front  | 10 ft. |
|  | Street Side                                  | 10 ft. |
|  | Interior Side                                | 5 ft.  |
|  | Rear   | 5 ft.  |
|  | Any Yard Adjacent to Interstate or Connector | 20 ft. |

### HEIGHT (MAXIMUM)

|          |                 |        |
|----------|-----------------|--------|
| <b>D</b> | Building Height | 45 ft. |
|----------|-----------------|--------|

<sup>100</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

**D. Form and Layout Standards<sup>101</sup>**

**(1) Applicability**

- (a) All existing and new development in the MX-2 zoning district shall comply with this Section 11-02-03.2.D.
- (b) In the event of a conflict between these provisions and any provision in Chapter 11-03, *Use Regulations* or Chapter 11-04, *Development and Design Standards*, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

**(2) Standards for All Development**

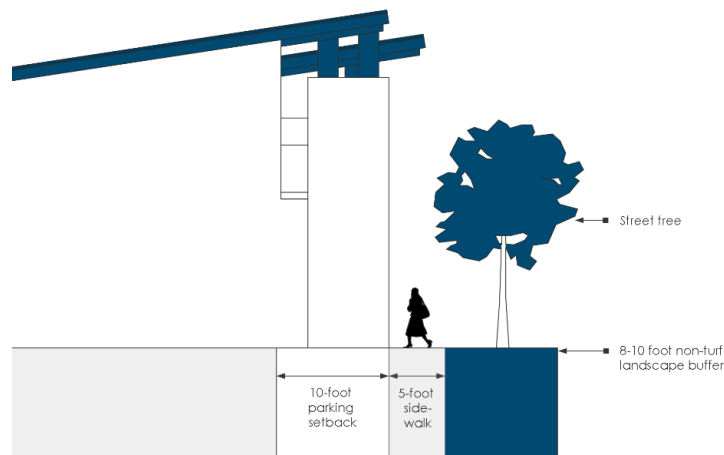
**(a) Vehicle-Oriented Facilities**

No vehicle-oriented ancillary facilities (such as Service Stations, Vehicle Washes, or Drive-Through Facilities) may be located between the front facade of the building and any street fronting the property.

**(b) Streetscape Standards**

All development shall comply with the following streetscape standards, which shall supersede any inconsistent dimensional standards in Section 11-04-06, *Access and Connectivity*.<sup>102</sup>

- i. Each frontage on a local street shall include a detached sidewalk at least five feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.
- ii. Each frontage on a collector or arterial street shall include a detached sidewalk at least five feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.2. MX-2 Streetscape Standards**

<sup>101</sup> New.

<sup>102</sup> New.

### 3. MX-3 Mixed-Use: Active<sup>103</sup>

#### A. Purpose

The MX-3 district is intended to provide opportunities for office, commercial, institutional, and residential uses to support active modes of transportation. This zoning district will require transit- and pathway-oriented development organized along the City's Best-in-Class Transit Routes and pathways at a scale designed to support the City's transportation investments and to serve community needs broader than those of nearby neighborhoods. This zoning district will be expanded as new investments in Best-in-Class Transit Routes and pathways are developed.



#### B. Cross-References to Other Applicable Code Sections

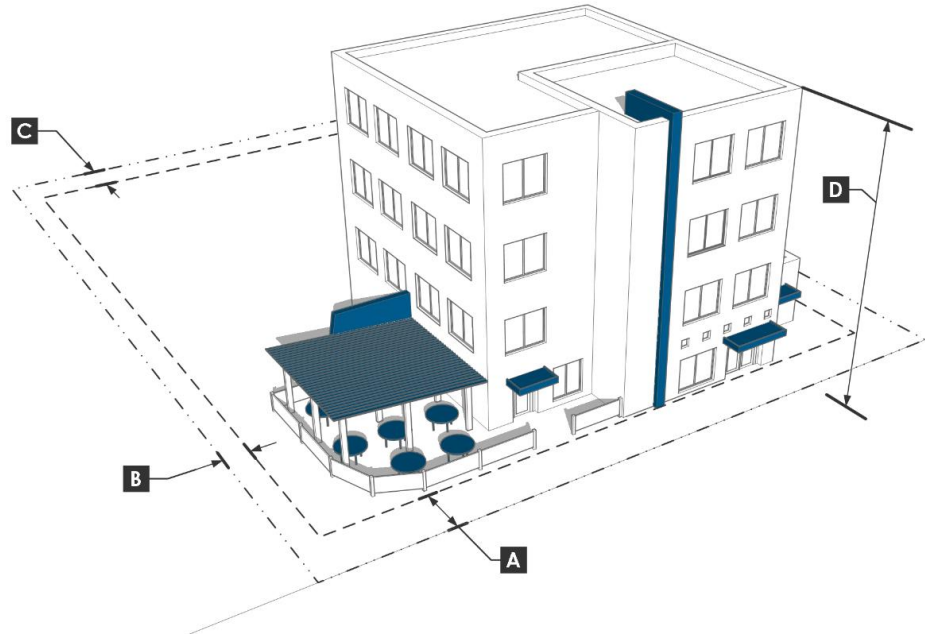
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

**TABLE 11-02.16: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>103</sup> New. Consolidated current R-O, N-O, L-O, C-1, C-2, C-3, C-4, and T-1 zoning districts with frontage on or within 1/8<sup>th</sup> of a mile of the edge of ROW from State St., Fairview St., Vista Ave., the Greenbelt, and Federal Way Trail, and current R-O, N-O, L-O, C-1, C-2, C-3, and C-4 zoning districts located within 1/8<sup>th</sup> mile radius of a Blueprint designated Community Activity Center or 1/2 mile of a Regional Activity Center.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.17: MX-3 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>104</sup>

|                            |     |
|----------------------------|-----|
| Lot Area (minimum)         | N/A |
| Lot Width (average)        | N/A |
| Street Frontage (minimum)  | N/A |
| Floor Area ratio (maximum) | N/A |

### BUILDING SETBACKS (MINIMUM/MAXIMUM)

|          |               |                         |
|----------|---------------|-------------------------|
| <b>A</b> | Front         | Min 0 ft.<br>Max 20 ft. |
|          | Street Side   | Min 0 ft.<br>Max 20 ft. |
| <b>B</b> | Interior Side | Min 0 ft.               |
| <b>C</b> | Rear Yard     | Min 10 ft.              |

### PARKING SETBACKS (MINIMUM)

|  |        |
|--|--------|
| Front  | 10 ft. |
| Street Side                                  | 10 ft. |
| Interior Side                                | 5 ft.  |
| Rear   | 5 ft.  |
| Any Yard Adjacent to Interstate or Connector | 20 ft. |

<sup>104</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

**TABLE 11-02.17: MX-3 LOT AND BUILDING STANDARDS**

**HEIGHT (MAXIMUM)**

|          |                 |        |
|----------|-----------------|--------|
| <b>D</b> | Building Height | 60 ft. |
|----------|-----------------|--------|

**D. Form and Layout Standards<sup>105</sup>**

**(1) Applicability**

- (a) When the MX-3 district is applied to lands that have not previously been developed, the development shall comply with this Section 11-02-03.3.D.
- (b) When the MX-3 district is applied to lands that have previously been developed, the redevelopment shall comply with this Section 11-02-03.3.D to the maximum extent practicable if it involves one or more of the following:
  - i. An increase in the total site area occupied by structures;
  - ii. An increase in the total gross square footage of structures; or
  - iii. An intensification of land use, as determined by the Planning Director.
- (c) In the event of a conflict between these provisions and any provision in Chapter 11-03, *Use Regulations* or Chapter 11-04, *Development and Design Standards*, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

**(2) Standards for All Development**

**(a) Active Use Required<sup>106</sup>**

Within each contiguous area of land zoned MX-3 that is under common control or ownership after the Effective Date, at least 60 percent of the approved ground floor street frontage shall be occupied by uses that are in active use by occupants or users of the building or development, or by the general public. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that are not accessible from the street frontage.<sup>107</sup>

**(b) Streetscape Standards**

All development shall comply with the following streetscape standards, which shall supersede any inconsistent dimensional standards in Section 11-04-06, *Access and Connectivity*.<sup>108</sup>

- i. Each frontage on a local street shall include a detached sidewalk at least five feet in width that is separated from the curb line a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.
- ii. Except as required by Subsection (3) below, each frontage on a collector or arterial street shall include a detached sidewalk at least 10 feet in width that is

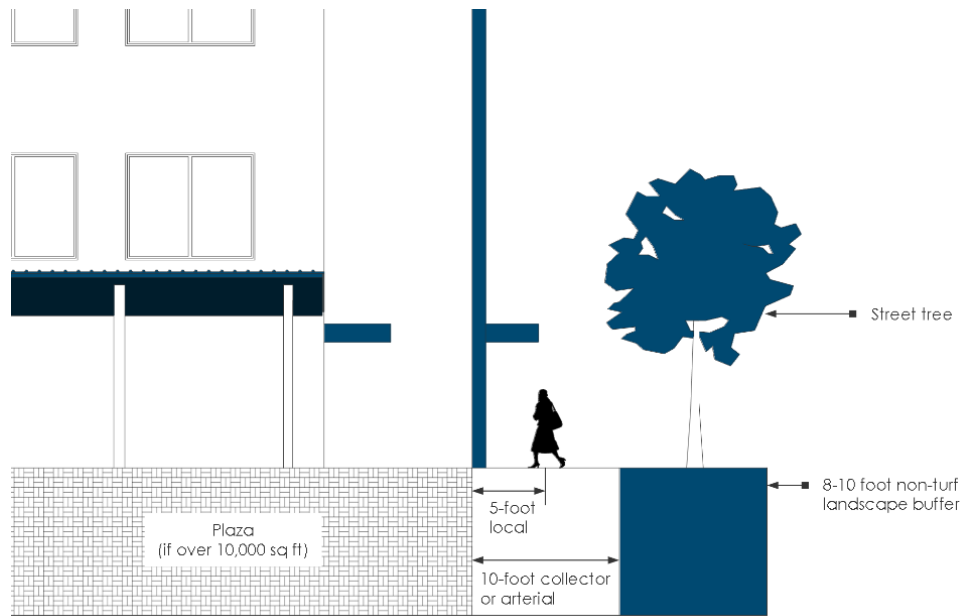
<sup>105</sup> Very detailed standards to promote pedestrian-friendly mixed use in the current R-O district were not carried forward, but are replaced by these simpler standards to promote pedestrian-friendly mixed use while allowing significant flexibility for architects and site designers.

<sup>106</sup> Revised from Mixed-Use in Consolidated Draft.

<sup>107</sup> New to Consolidated Draft. Aligned requirement with the language included in the Use-Specific Form Standards.

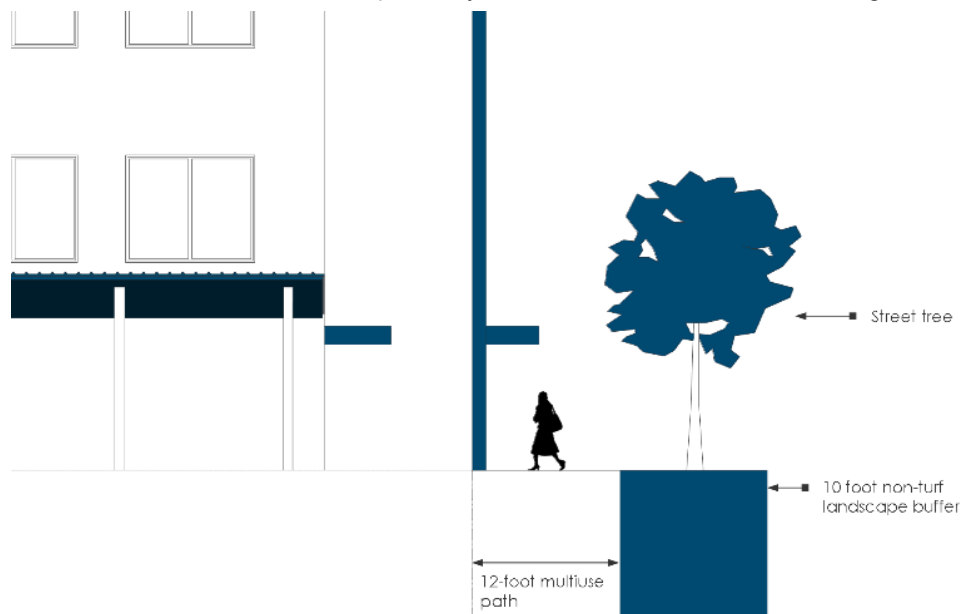
<sup>108</sup> New.

separated from the curb line a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.3. MX-3 Streetscape Standards (Except State Street)**

- iii. Each lot with frontage on State Street shall include a multi-use pathway at least 12 feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.4. MX-3 State Street Streetscape Standards**



**(3) Additional Standards for Development Over 10,000 Square Feet**

Each development containing more than 10,000 square feet of contiguous land area under common control or ownership shall contain the following elements:

**(a) Amenities**

An amenity feature that complies with one or more of the following standards:

- i. A landscape feature containing at least 400 square feet<sup>109</sup> of area and a minimum width of five feet, or 10 feet if trees are included. Features may include enhanced landscaping areas, lighting, water, art, and/or provisions for seating; or
- ii. An outdoor gathering area containing at least 800 square feet of area, that is clearly visible from an adjacent street, with seating for patrons.

**(b) Connectivity**

- i. At least one pedestrian walkway of at least 10 feet in width that is bordered by street trees, or by a public or private street with detached sidewalks at least 10 feet in width that:
  - A. Connects the MX-3 zoning district to one of the adjacent arterial or collector streets;
  - B. Is bordered along at least 60 percent of its length by buildings with facades no more than 10 feet from the sidewalk; and
  - C. Is interrupted by no more than one driveway per 200 linear feet, except as required by Idaho law.
- ii. At least one pedestrian connection to the local street system in an adjacent residential neighborhood, designed and located to allow residents of the neighborhood to enter mixed-use and nonresidential areas of the MX-3 zoning district without using an arterial street.

**(c) Vehicle-Oriented Facilities**

No surface parking spaces or vehicle-oriented ancillary facilities (such as Service Stations or Vehicle Washes) may be located between the front facade of the building and any street fronting the property.

**(d) Ground Floor Design**

- i. Each building facade facing a public or private street that contains ground floor residential uses shall be constructed within 15 feet of each street-facing lot line and occupy at least 50 percent of the width of the primary street frontage.
- ii. Each building facade facing a public or private street or driveway with ground floor nonresidential uses shall:
  - A. Have at least 50 percent of the area between three and eight feet above the ground floor occupied by windows or other transparent building features through which activity inside the building may be viewed; and
  - B. Have at least one door leading directly from building interiors onto the street (without an intervening shared lobby or entrances shared by multiple tenants or uses) for each 100 feet of horizontal facade length.

---

<sup>109</sup> Revised from 200 sq. ft. in Consolidated Draft.



#### 4. MX-4 Mixed-Use: Transit Oriented Development (TOD) Node<sup>110</sup>

##### A. Purpose

The MX-4 district is intended to provide opportunities for a mix of office, commercial, institutional, and residential uses to support transit. This zoning district will require transit-oriented development concentrated at identified transit stations. This zoning district will be expanded as new investments in Best-in-Class Transit Routes are developed and transit stations identified.



##### B. Cross-References to Other Applicable Code Sections

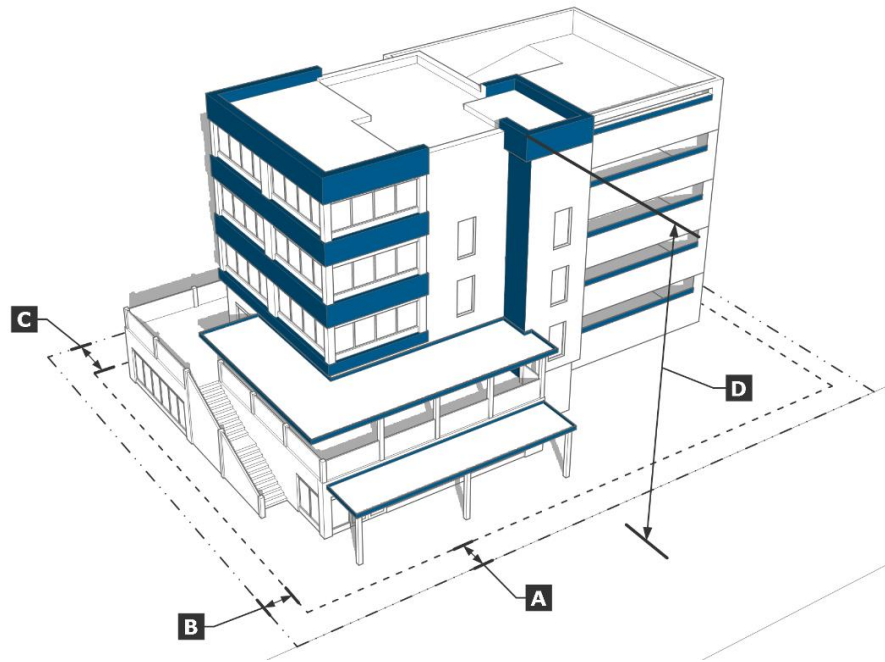
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

**TABLE 11-02.18: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>110</sup> New. Consolidated current R-O, N-O, L-O, C-1, C-2, C-3, C-4, and T-1 zoning districts located within 1/4<sup>th</sup> mile of an identified transit station (State & Whitewater, State & Collister, State & Glenwood, and State & Horseshoe Bend).

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.19: MX-4 LOT AND BUILDING STANDARDS****LOT STANDARDS<sup>111</sup>**

|                            |     |
|----------------------------|-----|
| Lot Area (minimum)         | N/A |
| Lot Width (average)        | N/A |
| Street Frontage (minimum)  | N/A |
| Floor Area Ratio (maximum) | N/A |

**BUILDING SETBACKS (MINIMUM/MAXIMUM)**

|          |               |                         |
|----------|---------------|-------------------------|
| <b>A</b> | Front         | Min 0 ft.<br>Max 20 ft. |
|          | Street Side   | Min 0 ft.<br>Max 20 ft. |
| <b>B</b> | Interior Side | Min 0 ft.               |
| <b>C</b> | Rear Yard     | Min 10 ft.              |

**PARKING SETBACKS (MINIMUM)**

|  |        |
|--|--------|
| Front  | 10 ft. |
| Street Side                                  | 10 ft. |
| Interior Side                                | 5 ft.  |
| Rear   | 5 ft.  |
| Any Yard Adjacent to Interstate or Connector | 20 ft. |

<sup>111</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

**TABLE 11-02.19: MX-4 LOT AND BUILDING STANDARDS****HEIGHT (MAXIMUM)**

|          |                 |        |
|----------|-----------------|--------|
| <b>D</b> | Building Height | 60 ft. |
|----------|-----------------|--------|

**D. Form, Layout, and Design Standards<sup>112</sup>****(1) Applicability**

- (a) When the MX-4 district is applied to lands that have not previously been developed, the development shall comply with this Section 11-02-03.4.D.
- (b) When the MX-4 district is applied to lands that have previously been developed, the redevelopment shall comply with this Section 11-02-03.4.D to the maximum extent practicable if it involves one or more of the following:
  - i. An increase in the total site area occupied by structures;
  - ii. An increase in the total gross square footage of structures; or
  - iii. An intensification of land use, as determined by the Planning Director.
- (c) In the event of a conflict between these provisions and any provision in Chapter 11-03, *Use Regulations* or Chapter 11-04, *Development and Design Standards*, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

**(2) Standards for All Development****(a) Active Use Required<sup>113</sup>**

Within each contiguous area of land zoned MX-4 that is under common control or ownership after the Effective Date, at least 60 percent of the approved ground floor street frontage shall be occupied by uses that are in active use by occupants or users of the building or development, or by the general public. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that are not accessible from the street frontage.<sup>114</sup>

**(b) Streetscape Standards**

All development shall comply with the following streetscape standards, which shall supersede any inconsistent dimensional standards in Section 11-04-06, *Access and Connectivity*.<sup>115</sup>

- i. Each frontage on a local street shall include a detached sidewalk at least five feet in width that is separated from the curb line a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.
- ii. Except as required by Subsection (3) below, each frontage on a collector or arterial street shall include a detached sidewalk at least 10 feet in width that is separated from the curb line a minimum of eight to 10 feet, depending on the

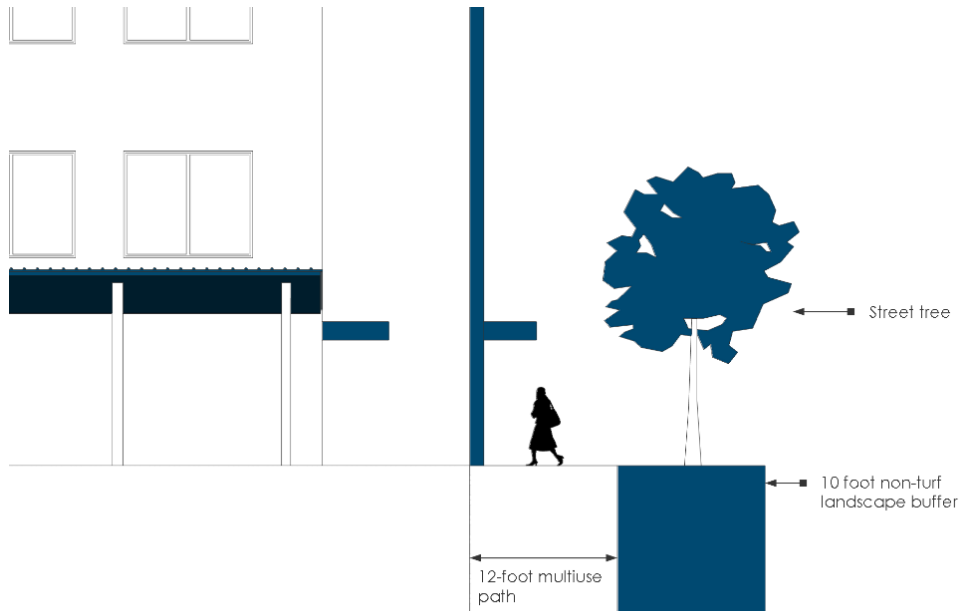
<sup>112</sup> New.<sup>113</sup> Revised from Mixed-Use in Consolidated Draft.<sup>114</sup> New to Consolidated Draft. Aligned requirement with the language included in the Use-Specific Form Standards.<sup>115</sup> New.

type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.5. MX-4 Streetscape Standards (Except State Street)**

- iii. Each lot with frontage on State Street shall include a multiuse pathway at least 12 feet in width that is separated from the curb line by a minimum of eight to 10 feet, depending on the type of street tree, to accommodate a landscape buffer and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.



**Figure 2.6. MX-4 State Street Streetscape Standards**

**(c) Amenities**

Each development shall include an amenity feature that complies with one or more of the following standards:

- i. A landscape feature containing at least 400 square feet<sup>116</sup> of area and a minimum width of five feet, or 10 feet if trees are included. Features may include enhanced landscaping areas, lighting, water, art, and/or provisions for seating; or
- ii. An outdoor gathering area containing at least 800 square feet of area, that is clearly visible from an adjacent street, with seating for patrons.

**(d) Connectivity**

Each development shall provide the following elements:

- i. At least one walkable outdoor street that:
  - A. Is bordered along at least 60 percent of its length by buildings with facades no more than 10 feet from the sidewalk; and
  - B. Is interrupted by no more than one driveway per 200 linear feet, except as required by Idaho law.
- ii. At least one pedestrian connection to the local street system in an adjacent residential neighborhood, designed and located to allow residents of the neighborhood to enter mixed-use and nonresidential areas of the MX-4 zoning district without using an arterial street.

**(e) Vehicle-Oriented and Parking Facilities**

- i. No Parking Lot<sup>117</sup> unrelated to a Park and Ride Facility designated by the City shall be located within the MX-4 zoning district.
- ii. Where surface parking lots are part of a Park and Ride Facility designated by the City, no surface parking spaces or vehicle-oriented ancillary facilities (such as Service Stations or Vehicle Washes) may be located between the front facade of the building and any street fronting the property.
- iii. At least 80 percent of parking provided to serve a permitted or approved conditional use on the property shall be located in parking garages or alternate parking facilities, such as elevated parking lifts, rather than surface parking lots.
- iv. Any portion of a permitted Park and Ride Facility or accessory surface parking lot within 50 feet of a street frontage shall screen parked vehicles from view by installing a brick or masonry wall between two and one half and three feet in height between the parking lot and the street.

**(f) Pedestrian-Oriented Design**

- i. The maximum length of each primary building facing a public or private street shall be 125 feet.
- ii. At least one walkway shall be provided from an adjacent sidewalk to each building entrance.

<sup>116</sup> Revised from 200 sq. ft. in Consolidated Draft

<sup>117</sup> Replaced "principal use surface parking lot" in Consolidated Draft. Parking Lot is defined as a principal use surface parking lot.

- iii. Where a sidewalk, trail, or other walkway crosses a street, driveway, drive aisle, or parking lot, the crossing shall be clearly marked with a change in paving material, color, or height, decorative bollards, or similar elements.
- iv. Where a lot or development includes more than one primary structure, a pedestrian walkway at least five feet in width shall be provided between at least one pedestrian entrance in each primary structure.
- v. Along all public and private streets, all utility boxes and above-ground utility installations other than street and pedestrian light poles, traffic safety signals, and fire hydrants shall comply with the following standards to the maximum extent practicable and consistent with their function:
  - A. They shall be located to the side or rear of buildings; or
  - B. Where a side or rear location is impracticable, they shall be set back a minimum of three feet from the sidewalk, and the three foot minimum setback shall be landscaped with shrubbery that will screen the utility structure from public view.

## 5. MX-5 Mixed Use: Downtown<sup>118</sup>

### A. Purpose

The MX-5 district is intended to provide opportunities for a mix of higher intensity office, commercial, institutional, and residential uses. The MX-5 district is intended to accommodate the needs of the city's Downtown Planning Area as defined in the Comprehensive Plan and to provide for activities conducive to a compact, concentrated, and walkable urban downtown mixed-use center.



### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

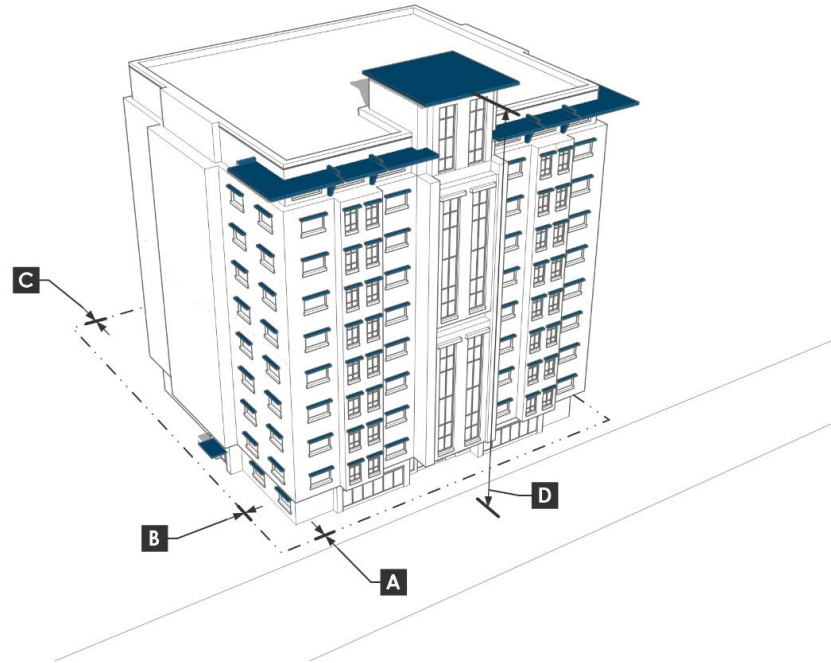
**TABLE 11-02.20: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>118</sup> New. Consolidated current C-2, C-3, C-4, C-5, and R-O zoning districts within the Downtown Planning Area. Purpose statement modified in Consolidated Draft for internal consistency.



## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.21: MX-5 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>119</sup>

|  |                            |     |
|--|----------------------------|-----|
|  | Lot Area (minimum)         | N/A |
|  | Lot Width (average)        | N/A |
|  | Street Frontage (minimum)  | N/A |
|  | Floor Area Ratio (maximum) | N/A |

### BUILDING SETBACKS (MINIMUM/MAXIMUM)

|          |               |                         |
|----------|---------------|-------------------------|
| <b>A</b> | Front         | Min 10 ft.              |
|          | Street Side   | Min 0 ft.<br>Max 20 ft. |
| <b>B</b> | Interior Side | Min 0 ft.               |
| <b>C</b> | Rear Yard     | N/A                     |

### PARKING SETBACKS (MINIMUM)

|  |  |        |
|--|--|--------|
|  | Front  | 10 ft. |
|  | Street Side                                  | 10 ft. |
|  | Interior Side                                | 5 ft.  |
|  | Rear   | 5 ft.  |
|  | Any Yard Adjacent to Interstate or Connector | 10 ft. |

<sup>119</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

**TABLE 11-02.21: MX-5 LOT AND BUILDING STANDARDS**

**HEIGHT (MAXIMUM)**

|          |                 |     |
|----------|-----------------|-----|
| <b>D</b> | Building Height | N/A |
|----------|-----------------|-----|

**D. Form and Design Standards<sup>120</sup>**

**(1) Applicability**

- (a) All existing and new development in the MX-5 zoning district shall comply with this Section 11-02-03.2.D.
- (b) In the event of a conflict between these provisions and any provision in Chapter 11-03, *Use Regulations* or Chapter 11-04, *Development and Design Standards*, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

**(2) Standards for All Development**

**(a) Streetscape Standards**

A continuous public walkway, located between the face of building and adjacent street or a vacated street alignment, shall be provided and shall comply with adopted City standards, except that where this Subsection (2) lists more restrictive criteria, this Subsection (2) shall control.

- i. The minimum width for clear pedestrian movement shall be seven and one-half feet, and the overall width shall be at least 13 and one-half feet unless otherwise specified in the Downtown Streetscape Standards and Specifications Manual.<sup>121</sup>
- ii. The location of the pedestrian zone and amenities zone on each sidewalk shall be consistent with those on adjacent lots and with those on adjacent buildings to the maximum extent practicable.<sup>122</sup>
- iii. The paving pattern and the placement of trees and pedestrian amenities shall be unobstructed.
- iv. The sidewalk surface shall be skid resistant, free of surface obstruction, and of a smooth gradient. The cross slope shall freely drain and not exceed two percent gradient.<sup>123</sup>
- v. Street trees shall be installed and shall be consistent with tree species on adjacent lots (except when existing trees do not comply with City standards). Street trees shall be two and one-half to three inch caliper, symmetrical, and shall provide no physical or visual obstructions within a clear vision triangle located at corners and alleys. Street tree spacing shall be of a consistent pattern, with a minimum of 21 feet, and a maximum of 40 feet between trees.
- vi. Pedestrian amenities shall be installed and may include benches, bollards, newsstands, kiosks, tree grates, bicycle racks, planters, and trash receptacles.

<sup>120</sup> Current 11-07-06.3, reworded for clarity and internal consistency. Subsection 4 is new and removes requirement that ground floor be designed for retail uses. Subsection (b) was reworded for clarity.

<sup>121</sup> Reference to manual is new, to reflect current practice.

<sup>122</sup> Reference to adjacent lots is new, and maximum extent practicable standard added for adjacent blocks.

<sup>123</sup> Maximum gradient reduced from 4 percent.

Pedestrian amenities shall be constructed of durable materials, of adequate quantity to meet the intended level of use, and compatible with the design of the space.

- vii. Pedestrian lighting shall be installed, shall be a minimum of 12 feet and a maximum of 16 feet in height, shall replace mid-block high mast lighting, and shall be normally spaced at 60 feet apart unless otherwise required by the Downtown Design Standards and Guidelines.

**(b) Vehicle-Oriented and Parking Facilities**

No surface parking spaces or vehicle-oriented ancillary facilities (such as Service Stations or Vehicle Washes) may be located between the front facade of the building and any street fronting the property.

**(c) Ground Floor Design**

- i. At least 70 percent of the ground level, street-facing facade(s) must abut and be oriented to a public sidewalk or plaza.
- ii. Each building facade facing a public or private street that contains ground floor nonresidential uses shall be constructed within five feet of each street-facing lot line and occupy at least 80 percent of the width of the primary street frontage.
- iii. Each building facade facing a public or private street that contains ground floor residential uses shall be constructed within 15 feet of each street-facing lot line and occupy at least 80 percent of the width of the primary street frontage.
- iv. Each building facade facing a public or private street or driveway with ground floor nonresidential uses shall:
  - A. Have at least 60 percent of the area between three and eight feet above the ground floor occupied by windows or other transparent building features through which activity inside the building may be viewed; and
  - B. Have at least one door leading directly from building interiors onto the street (without an intervening shared lobby or entrances shared by multiple tenants or uses) for each 50 feet of horizontal facade length.

**(d) General Building Design**

- i. Each side of each primary building shall be designed to minimize or mitigate glare, reflected heat, and wind impacts on abutting properties.
- ii. Each side of each primary building shall be faced with high quality non-reflective materials such as stone, tile, and brick.

**E. Additional Standards<sup>124</sup>**

**(1) Rezoning of Land Contiguous to Existing MX-5 Zoning District**

Lands located in the Downtown Planning Area contiguous to existing land in the MX-5 zoning district may be rezoned into the MX-5 zoning district.<sup>125</sup>

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<sup>124</sup> Current 11-04-05.H. Cross-references to MX-5 design standards were not carried forward, because revised text and reorganization makes them unnecessary.

<sup>125</sup> Reference to Downtown Planning Area is new.

**(2) Rezoning of Land Not Contiguous to Existing MX-5 Zoning District<sup>126</sup>**

Lands located in the Downtown Planning Area that are not contiguous to existing land in the MX-5 zoning district may be rezoned to MX-5 if the Zoning Map Amendment is accompanied by a Development Agreement that incorporates a development plan with standards for compatibility, land uses, height, bulk, setbacks, and other elements.

**(3) Enclosure of Activities Required**

All warehouse, storage, repair, manufacture, and similar uses or related activities shall be conducted in an enclosed structure.

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<sup>126</sup> Replaces and significantly simplifies current 11-04-05.H(2) in Consolidated Draft by removing specific references to urban renewal districts and allowing non-contiguous rezonings in the MX-5 district with a Development Agreement.

## 6. MX-U Mixed-Use: University<sup>127</sup>

### A. Purpose<sup>128</sup>

The MX-U district is intended to provide flexible, creative development on Boise State University's property, including both new development and infill. This district allows for a mix of uses that support near-university residential, retail, and service functions.



### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

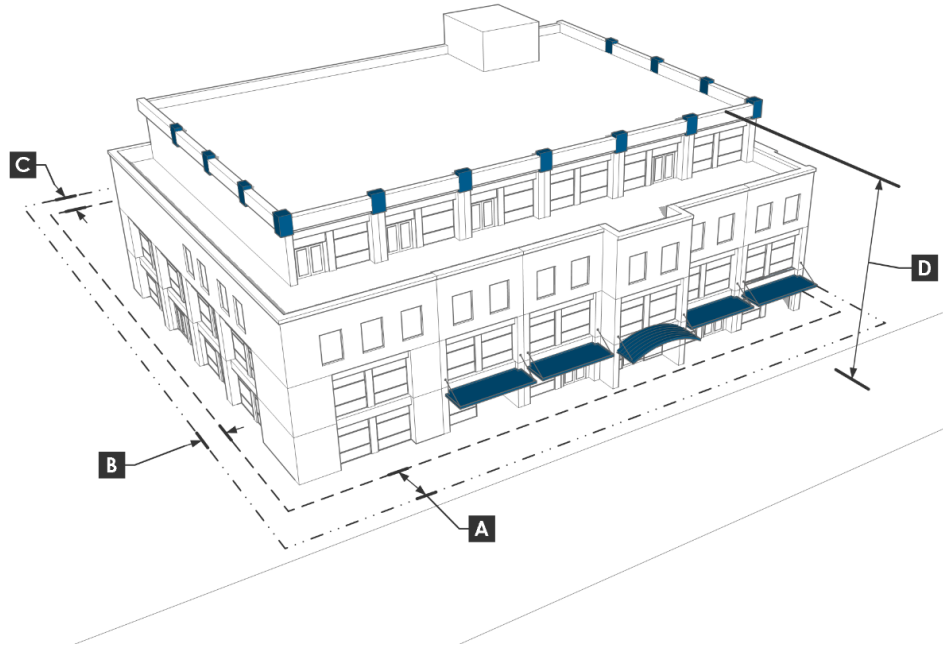
**TABLE 11-02.22: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>127</sup> Carried forward current Section 11-04-07.3, with changes as noted and renamed as a mixed-use district for accuracy.

<sup>128</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.23: MX-U LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>129</sup>

|  |                            |     |
|--|----------------------------|-----|
|  | Lot Area (minimum)         | N/A |
|  | Lot Width (average)        | N/A |
|  | Street Frontage (minimum)  | N/A |
|  | Floor Area Ratio (maximum) | N/A |

### BUILDING SETBACKS (MINIMUM)

|          |               |           |
|----------|---------------|-----------|
| <b>A</b> | Front         | 20 ft.[1] |
|          | Street Side   | 15 ft.[1] |
| <b>B</b> | Interior Side | N/A       |
| <b>C</b> | Rear Yard     | 20 ft.[1] |

### PARKING SETBACKS (MINIMUM)

|  |               |                           |
|--|---------------|---------------------------|
|  | Front         | 10 ft. [1] <sup>130</sup> |
|  | Street Side   | 10 ft. [1]                |
|  | Interior Side | 10 ft. [1]                |
|  | Rear          | 10 ft. [1]                |

<sup>129</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>130</sup> Revised to apply only at the boundaries at the MX-U district (like building setbacks); extended to apply to interior side setbacks that may be on the boundary; 0 min. for alleys was deleted based on this new limitation of setbacks to boundaries.

**TABLE 11-02.23: MX-U LOT AND BUILDING STANDARDS**

|  |  |   |
|--|--|---|
|  | Any Yard Adjacent to Interstate or Connector | 10 ft. [1]                                  |
| <b>HEIGHT (MAXIMUM)</b>  |  |   |
| <b>D</b>   | Building Height                              | As noted in the BSU campus boundary buffers |
| <b>Notes:</b>  |  |   |
| [1] Only applies from outer edge of BSU campus boundary buffers. |  |   |

**D. Additional Standards<sup>131</sup>**

Fire access to existing and new buildings shall be shown on all required site plans. A letter from the Idaho State Fire Marshal verifying compliance of the building plans with state requirements regarding fire safety shall be submitted to the Planning Director prior to construction.

<sup>131</sup> Deleted current 11-04-07.3.A(1) and a portion of(2).



## 11-02-04. Industrial Zoning Districts

### 1. I-1: Light Industrial<sup>132</sup>

#### A. Purpose<sup>133</sup>

The I-1 zoning district is intended to accommodate light manufacturing, assembly, fabrication, and technology-related land uses that may require significant transportation services but that are generally compatible with nearby commercial and residential areas when accompanied by substantial buffering, screening, and standards designed to mitigate impacts.



#### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

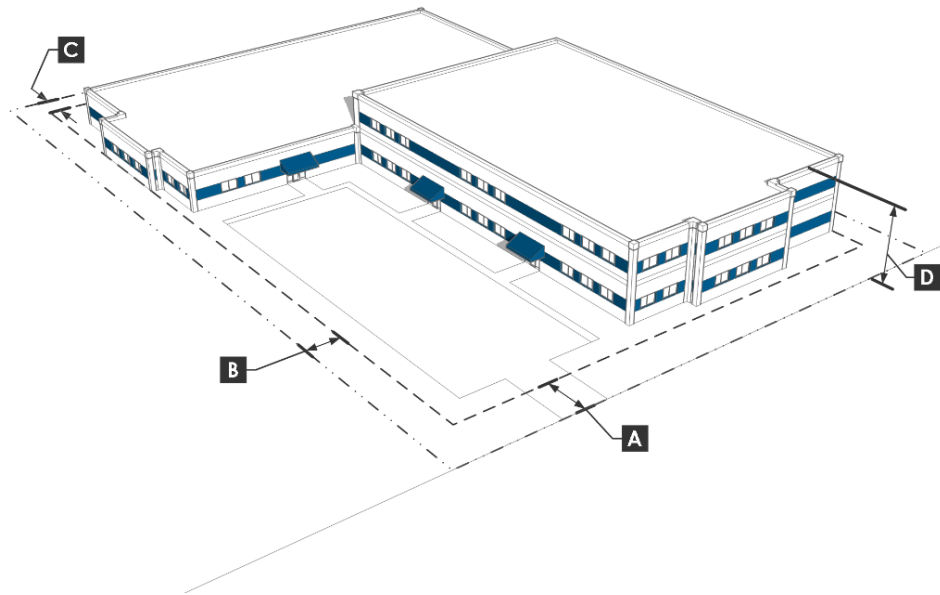
**TABLE 11-02.24: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>132</sup> Current 11-04-06 (M-1 and T-2), revised as noted.

<sup>133</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.25: I-1 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>134</sup>

|                            |                    |
|----------------------------|--------------------|
| Lot Area (minimum)         | N/A                |
| Lot Width (average)        | N/A                |
| Street Frontage (minimum)  | N/A <sup>135</sup> |
| Floor Area Ratio (maximum) | N/A                |

### BUILDING SETBACKS (MINIMUM)

|          |               |                           |
|----------|---------------|---------------------------|
| <b>A</b> | Front         | Min 20 ft.                |
|          | Street Side   | Min 15 ft. <sup>136</sup> |
| <b>B</b> | Interior Side | Min 0 ft. [1][2]          |
| <b>C</b> | Rear Yard     | Min 0 ft. [1][2]          |

### PARKING SETBACKS (MINIMUM)

|               |                       |
|---------------|-----------------------|
| Front         | 10 ft. <sup>137</sup> |
| Street Side   | 10 ft. <sup>138</sup> |
| Interior Side | 0 ft. [2]             |

<sup>134</sup> Current maximum total lot coverage and building lot coverage limits and minimum 200 acre site area requirement were deleted as unnecessary in these districts.

<sup>135</sup> Reduced from 30 ft.

<sup>136</sup> Current 20 ft. setback for properties abutting or across the street from a residential use or district for the M-1 district not carried forward.

<sup>137</sup> Replaces current 7 ft min in M-1 and 20 ft min in T-2.

<sup>138</sup> Replaces current 7 ft min in M-1 and 20 ft min in T-2.

**TABLE 11-02.25: I-1 LOT AND BUILDING STANDARDS**

|  |  |                       |
|--|--|-----------------------|
|  | Rear   | 0 ft. <sup>139</sup>  |
|  | Any Yard Adjacent to Interstate or Connector | 10 ft. <sup>140</sup> |
| <b>HEIGHT (MAXIMUM)</b>  |  |                       |
| <b>D</b>   | Building Height                              | 55 ft. <sup>141</sup> |
| <b>Notes:</b><br>[1] 50 ft. minimum for all development of three or more acres, when adjacent to a Residential zoning district.<br>[2] 15 ft. minimum, when adjacent to a Residential zoning district. |  |                       |

#### D. Additional Standards

- (1) No uses that generate, use, treat, store, or dispose of hazardous substances (as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 261.30 et seq., 302.4 and/or 355) are permitted.<sup>142</sup>
- (2) All operations shall be free of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter, water-carried waste, or other emissions.<sup>143</sup>

<sup>139</sup> Replaces current 0 ft min in M-1 and 15 ft min in T-2.

<sup>140</sup> 20 ft min for T-1 was not carried forward.

<sup>141</sup> Replaces current 150 ft. maximum controlled by a 45 degree angle of bulk plane in the T-2 district.

<sup>142</sup> New. This is intended to prohibit materials that are considered hazardous under federal law, and require that they be used only in the heavier I-2 zoning district.

<sup>143</sup> Current 11-04-06.F.

## 2. I-2: Heavy Industrial<sup>144</sup>

### A. Purpose<sup>145</sup>

The I-2 zoning district is intended to accommodate general industrial activity with greater impacts than those in the I-1 zoning district, including uses that require significant heavy transportation services, uses that frequently operate during nighttime hours, and uses that require additional standards to protect health, safety, or general welfare. The I-2 zoning district should be separated from commercial or residential development.



### B. Cross-References to Other Applicable Code Sections

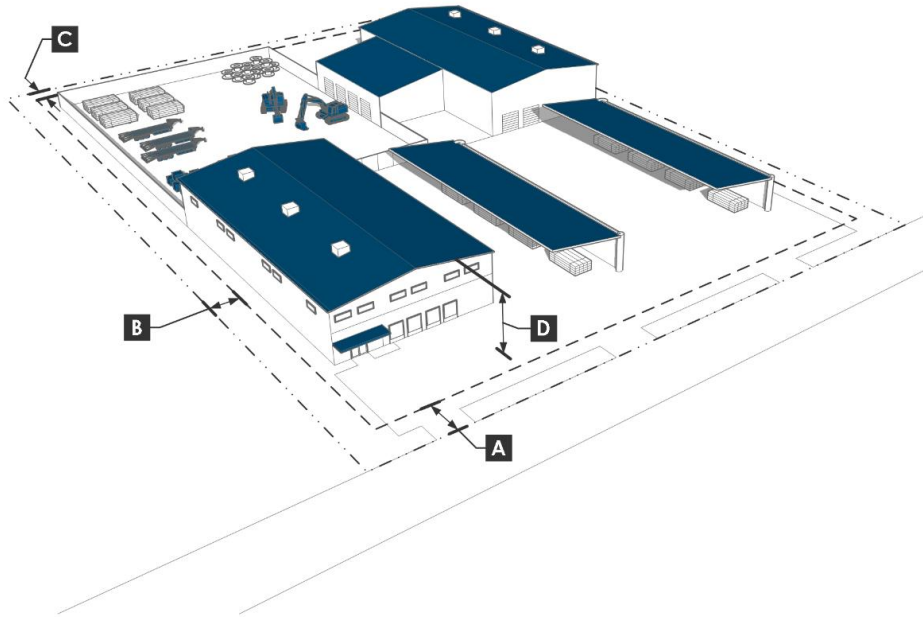
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

| TABLE 11-02.26: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|--|-------------------|
| CODE SECTION   | SECTION REFERENCE |
| Use Regulations  | Chapter 11-03     |
| Lot and Building Forms and Dimensions                              | 11-04-03          |
| Subdivision Standards  | 11-04-04          |
| Sensitive Lands  | 11-04-05          |
| Access and Connectivity  | 11-04-06          |
| Parking and Loading  | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                         | 11-04-08          |
| Building Design  | 11-04-09          |
| Exterior Lighting  | 11-04-010         |
| Signs  | 11-04-011         |

<sup>144</sup> Current 11-04-06 (M-2), revised as noted.

<sup>145</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.27: I-2 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>146</sup>

|                            |                    |
|----------------------------|--------------------|
| Lot Area (minimum)         | N/A                |
| Lot Width (average)        | N/A                |
| Street Frontage (minimum)  | N/A <sup>147</sup> |
| Floor Area Ratio (maximum) | N/A                |

### BUILDING SETBACKS (MINIMUM)

|          |               |                       |
|----------|---------------|-----------------------|
| <b>A</b> | Front         | 20 ft.                |
|          | Street Side   | 15 ft. <sup>148</sup> |
| <b>B</b> | Interior Side | 0 ft. [1][2]          |
| <b>C</b> | Rear Yard     | 0 ft. [1][2]          |

### PARKING SETBACKS (MINIMUM)

|  |             |                       |
|--|-------------|-----------------------|
|  | Front       | 15 ft. <sup>149</sup> |
|  | Street Side | 15 ft. <sup>150</sup> |

<sup>146</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>147</sup> Reduced from 30 ft.

<sup>148</sup> Current 20 ft. minimum setback for properties abutting or across the street from a residential use or district not carried forward.

<sup>149</sup> Replaces current 7 ft min in M-2.

<sup>150</sup> Replaces current 7 ft min in M-2.

**TABLE 11-02.27: I-2 LOT AND BUILDING STANDARDS**

|  |  |                          |
|--|--|--------------------------|
|  | Interior Side                                | 0 ft. [2] <sup>151</sup> |
|  | Rear   | 0 ft. <sup>152</sup>     |
|  | Any Yard Adjacent to Interstate or Connector | 10 ft.                   |
| <b>HEIGHT (MAXIMUM)</b>  |  |                          |
| <b>D</b>   | Building Height                              | 55 ft.                   |
| <b>Notes:</b><br>[1] 50 ft. minimum for all development of three or more acres, when adjacent to a Residential zoning district.<br>[2] 15 ft. minimum, when adjacent to a Residential zoning district. |  |                          |

**D. Additional Standards**

- (1) All Allowed Uses that generate, use, treat, store, or dispose of hazardous substances (as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 261.30 et seq., 302.4 and/or 355), shall require a Conditional Use Permit.<sup>153</sup>
- (2) All operations shall be free of odor, dust, smoke, cinders, gas, fumes, noise, vibrations, refuse matter, water-carried waste, or other emissions.<sup>154</sup>

<sup>151</sup> Replaces current 15 ft. residential min in M-2.

<sup>152</sup> Replaces current 15 ft. residential min in M-2.

<sup>153</sup> New.

<sup>154</sup> Current 11-04-06.F.



## 11-02-05. Open Land and Institutional Zoning Districts

### 1. O-1 Open Land: Private<sup>155</sup>

#### A. Purpose<sup>156</sup>

The O-1 zoning district is intended for privately held open land such as golf courses, agriculture and rural residential neighborhoods. These lands are anticipated to be rezoned and developed. This zoning district is used as a holding zone until rezoning and development occurs.



#### B. Cross-References to Other Applicable Code Sections

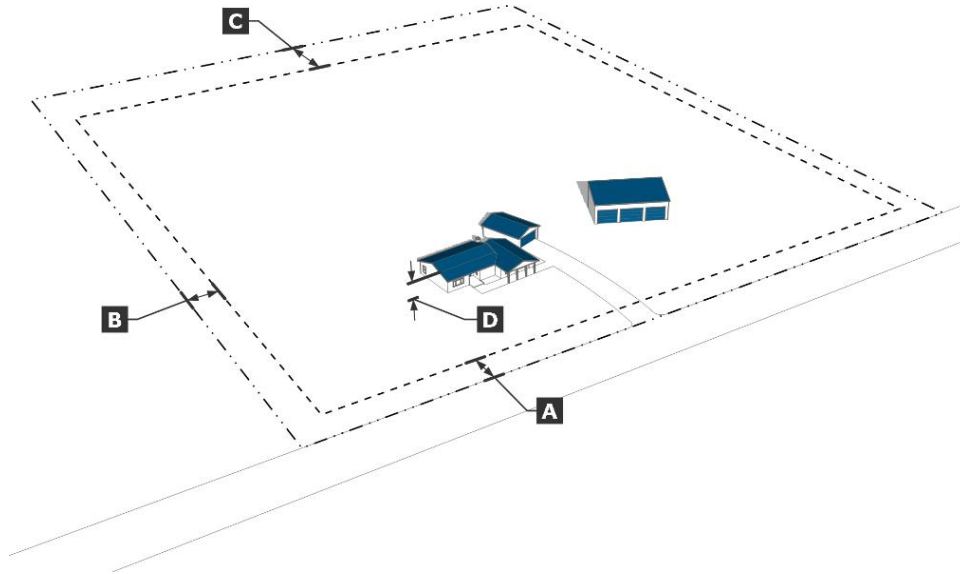
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

| TABLE 11-02.28: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|--|-------------------|
| CODE SECTION   | SECTION REFERENCE |
| Use Regulations  | Chapter 11-03     |
| Lot and Building Forms and Dimensions                              | 11-04-03          |
| Subdivision Standards  | 11-04-04          |
| Sensitive Lands  | 11-04-05          |
| Access and Connectivity  | 11-04-06          |
| Parking and Loading  | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                         | 11-04-08          |
| Building Design  | 11-04-09          |
| Exterior Lighting  | 11-04-010         |
| Signs  | 11-04-011         |

<sup>155</sup> Current A-1 land owned privately, with changes as noted.

<sup>156</sup> New.

## C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.29: O-1 LOT AND BUILDING STANDARDS**

### LOT STANDARDS<sup>157</sup>

|  |                    |
|--|--------------------|
| Lot area (minimum)                               | 1 acre             |
| Lot width (average)                              | N/A <sup>158</sup> |
| Street frontage (minimum)                        | N/A <sup>159</sup> |
| Floor area ratio or dwelling unit/acre (maximum) | N/A <sup>160</sup> |

### BUILDING SETBACKS (MINIMUM)

|          |               |                       |
|----------|---------------|-----------------------|
| <b>A</b> | Front         | 20 ft.                |
|          | Street Side   | 20 ft.                |
| <b>B</b> | Interior Side | 20 ft. <sup>161</sup> |
| <b>C</b> | Rear Yard     | 60 ft. <sup>162</sup> |

### PARKING SETBACKS (MINIMUM)<sup>163</sup>

|  |             |        |
|--|-------------|--------|
|  | Front       | 20 ft. |
|  | Street Side | 10 ft. |

<sup>157</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>158</sup> 50 ft. minimum lot width was not carried forward.

<sup>159</sup> Current 30 ft. requirement was not carried forward.

<sup>160</sup> Current maximum density 1 unit/acre was not carried forward.

<sup>161</sup> Increased from current 20 ft. requirement.

<sup>162</sup> Increased from current 30 ft. requirement.

<sup>163</sup> New.



| TABLE 11-02.29: O-1 LOT AND BUILDING STANDARDS |  |                       |
|--|--|-----------------------|
|  | Interior Side                                | 10 ft.                |
|  | Rear   | 10 ft.                |
|  | Any Yard Adjacent to Interstate or Connector | 20 ft.                |
| HEIGHT (MAXIMUM)                               |  |                       |
| D  | Building Height                              | 45 ft. <sup>164</sup> |

<sup>164</sup> 35 ft. height limit abutting Residential zoning districts was not carried forward because Neighborhood Transition Standards now apply.

## 2. O-2 Open Land: Municipal<sup>165</sup>

### A. Purpose<sup>166</sup>

The O-2 zoning district is intended to provide larger land areas for municipal development such as parks, schools, operations and other public, institutional, civic, and community uses.



### B. Cross-References to Other Applicable Code Sections

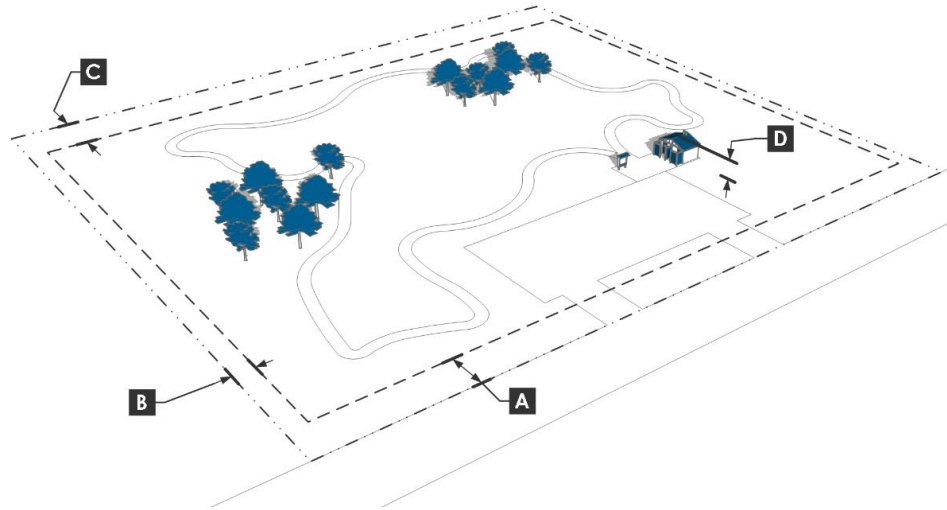
All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

| TABLE 11-02.30: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS |                   |
|--|-------------------|
| CODE SECTION   | SECTION REFERENCE |
| Use Regulations  | Chapter 11-03     |
| Lot and Building Forms and Dimensions                              | 11-04-03          |
| Subdivision Standards  | 11-04-04          |
| Sensitive Lands  | 11-04-05          |
| Access and Connectivity  | 11-04-06          |
| Parking and Loading  | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening                         | 11-04-08          |
| Building Design  | 11-04-09          |
| Exterior Lighting  | 11-04-010         |
| Signs  | 11-04-011         |

<sup>165</sup> Current A-1 land owned publicly, with changes as noted.

<sup>166</sup> New.

### C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.31: O-2 LOT AND BUILDING STANDARDS**

#### LOT STANDARDS<sup>167</sup>

|                            |                    |
|----------------------------|--------------------|
| Lot Area (minimum)         | N/A <sup>168</sup> |
| Lot Width (average)        | N/A <sup>169</sup> |
| Street Frontage (minimum)  | N/A <sup>170</sup> |
| Floor Area Ratio (maximum) | N/A <sup>171</sup> |

#### BUILDING SETBACKS (MINIMUM)

|          |               |                       |
|----------|---------------|-----------------------|
| <b>A</b> | Front         | 20 ft.                |
|          | Street Side   | 20 ft.                |
| <b>B</b> | Interior Side | 20 ft. <sup>172</sup> |
| <b>C</b> | Rear Yard     | 60 ft. <sup>173</sup> |

#### PARKING SETBACKS (MINIMUM)<sup>174</sup>

|  |               |        |
|--|---------------|--------|
|  | Front         | 20 ft. |
|  | Street Side   | 10 ft. |
|  | Interior Side | 10 ft. |
|  | Rear          | 10 ft. |

<sup>167</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>168</sup> 1 acre minimum lot size was not carried forward.

<sup>169</sup> 50 ft. minimum lot width was not carried forward.

<sup>170</sup> Current 30 ft. requirement was not carried forward.

<sup>171</sup> Current maximum density 1 unit/acre was not carried forward.

<sup>172</sup> Increased from current 20 ft. requirement.

<sup>173</sup> Increased from current 30 ft. requirement.

<sup>174</sup> New.

**TABLE 11-02.31: O-2 LOT AND BUILDING STANDARDS**

|                         |  |                       |
|-------------------------|--|-----------------------|
|                         | Any Yard Adjacent to Interstate or Connector | 20 ft.                |
| <b>HEIGHT (MAXIMUM)</b> |  |                       |
| <b>D</b>                | Building Height                              | 45 ft. <sup>175</sup> |

<sup>175</sup> 35 ft. height limit abutting Residential zoning districts was not carried forward because Neighborhood Transition Standards now apply.

### 3. O-3 Open Land: Managed<sup>176</sup>

#### A. Purpose<sup>177</sup>

The O-3 zoning district is intended to support managed land conservation efforts on the fringes of the city by allowing for very limited residential development on large lots, as well as limited agricultural, recreational, and civic uses, under conditions designed to protect sensitive environmental resources. This district is set aside for open space uses, including parks, floodways, riparian areas, steep slopes, and flood control facilities; or to allow and protect grazing operations. These goals may be achieved through clustering of limited residential development in order to preserve larger contiguous areas of open space.



#### B. Cross-References to Other Applicable Code Sections

All development shall comply with all applicable sections of this Code. Cross-references to some of the key sections are provided below.

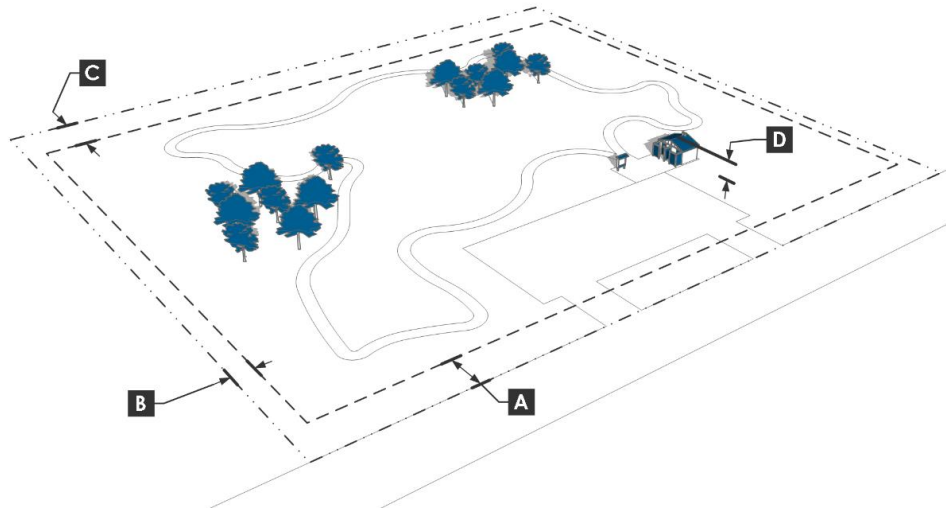
**TABLE 11-02.32: CROSS-REFERENCES TO OTHER APPLICABLE CODE SECTIONS**

| CODE SECTION                               | SECTION REFERENCE |
|--|-------------------|
| Use Regulations                            | Chapter 11-03     |
| Lot and Building Forms and Dimensions      | 11-04-03          |
| Subdivision Standards                      | 11-04-04          |
| Sensitive Lands                            | 11-04-05          |
| Access and Connectivity                    | 11-04-06          |
| Parking and Loading                        | 11-04-07          |
| Landscaping, Fencing, Walls, and Screening | 11-04-08          |
| Building Design                            | 11-04-09          |
| Exterior Lighting                          | 11-04-010         |
| Signs                                      | 11-04-011         |

<sup>176</sup> Current 11-04-03 (A-2), with changes as noted.

<sup>177</sup> Revised to clarify that this zoning district is used to protect open spaces from development, not to allow low-density development. Reference to recreational uses added in Consolidated Draft.

### C. Dimensional Standards



The following table is a summary of the district-specific dimensional standards. Complete dimensional standards are included in Section 11-04-03, *Lot and Building Forms and Dimensions*.

**TABLE 11-02.33: O-3 LOT AND BUILDING STANDARDS**

#### LOT STANDARDS<sup>178</sup>

|                            |                    |
|----------------------------|--------------------|
| Lot Area (minimum)         | N/A <sup>179</sup> |
| Lot Width (average)        | N/A <sup>180</sup> |
| Street Frontage (minimum)  | N/A                |
| Floor Area Ratio (maximum) | N/A                |
| Density (maximum)          | 1 unit/4 acres     |

#### BUILDING SETBACKS (MINIMUM)

|          |               |        |
|----------|---------------|--------|
| <b>A</b> | Front         | 20 ft. |
|          | Street Side   | 20 ft. |
| <b>B</b> | Interior Side | 20 ft. |
| <b>C</b> | Rear Yard     | 60 ft. |

#### PARKING SETBACKS (MINIMUM)

|  |               |                       |
|--|---------------|-----------------------|
|  | Front         | 20 ft. <sup>181</sup> |
|  | Street Side   | 10 ft.                |
|  | Interior Side | 10 ft.                |
|  | Rear          | 10 ft.                |

<sup>178</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

<sup>179</sup> 40 acre minimum lots size was not carried forward because this district is designed to apply to designated park and open space lands, which vary significantly in size.

<sup>180</sup> 100 ft. minimum lot width was not carried forward because this district is designed to apply to designated park and open space lands, which vary significantly in size.

<sup>181</sup> All parking setbacks are new.

**TABLE 11-02.33: O-3 LOT AND BUILDING STANDARDS**

|                         |  |                       |
|-------------------------|--|-----------------------|
|                         | Any Yard Adjacent to Interstate or Connector | 20 ft.                |
| <b>HEIGHT (MAXIMUM)</b> |  |                       |
| <b>D</b>                | Building Height                              | 45 ft. <sup>182</sup> |

<sup>182</sup> 35 ft. height limit abutting Residential zoning districts was not carried forward because Neighborhood Transition Standards now apply.

## 11-02-06. PUD: Planned Unit Development<sup>183</sup>

### Commentary:

The City's current PUD approach does not reflect best practices, and has been significantly revised. Most newer codes reserve the term Planned Unit Development (PUD) for larger or more complex projects that deviate significantly from underlying zoning district standards, raise unusual/complex compatibility issues, and usually require significant additional amenities or open spaces to mitigate their impacts. Those large/complex applications are generally reviewed by the Planning and Zoning Commission and approved by City Council, but the tool is designed to be used infrequently.

In contrast, the types of approvals currently called PUDs in Boise are often handled through a design alternative process in which deviations from underlying zoning standards are approved by Planning and Zoning Commission based on objective criteria that ensure the inclusion of amenities and meaningful/usable open space as well as mitigation of other impacts. In addition, because they are designed to address unique terrain and site conditions that cannot be effectively mitigated by the inclusion of additional amenities, deviations from underlying development standards in the Foothills Planning Area (i.e. Foothills Planned Developments, current Section 11-07-09) should also be approved by the Planning and Zoning Commission (as they are now) rather than by City Council.

### 1. Purpose<sup>184</sup>

The purpose of the PUD zoning district is to accommodate new and imaginative concepts in urban design and land development to promote and improve the health, safety, and general welfare of the citizens in ways consistent with the City's adopted Comprehensive Plan. The principal use of this district is to promote innovative design that incorporates public amenities that provide significant benefits to Boise residents and that would not be required under other portions of this Code or other adopted City regulations. The PUD zoning district is not intended to allow deviations from the standards and requirements of this Code that are not accompanied by significant additional amenities, or as a substitute for obtaining Variances pursuant to Section 11-05-05.3.L. Areas rezoned to the PUD district shall be subject to a Master Plan or Development Agreement, that shall be approved by City Council at the same time as the rezoning to PUD.

### 2. Eligibility Criteria<sup>185</sup>

An application for rezoning to a PUD zoning district shall not be accepted by the City unless it complies with all of the provisions of this Subsection 2.

#### A. Minimum Size of Planned Development<sup>186</sup>

Each PUD application shall include a contiguous area of land at least five acres in size, all of which is under single ownership or control.

<sup>183</sup> New zoning district. The weaknesses and perceived unpredictability of the current PUD process were highlighted in the Final Diagnostic and Solutions Report. PUDs have been drafted to be approved by City Council and mapped as zoning districts for increased transparency on the zoning map.

<sup>184</sup> New. Reference to Development Agreement added in Consolidated Draft.

<sup>185</sup> Current 11-07-06.5.A, B, and F, with changes as noted. Current 11-07-06.5.D. regarding maximum dwelling unit calculation not carried forward as unnecessary. Required setbacks in current 11-07-06.5.C not carried forward to increase flexibility of site design.

<sup>186</sup> Increased from current no minimum, 1, 2, and 5 acres determined by zoning district type in 11-07-06.5.A. Did not carry forward current 11-07-06.5.B(1)(b), (f), and (2). Reduced from 10 acres in Consolidated Draft.



**B. Mandatory Eligibility Requirements<sup>187</sup>**

Each PUD application shall include all of the following elements, each of which shall include a higher level of performance than otherwise required by this Code or other adopted City or governmental regulations, as determined by the Planning Director:

**(1) Pedestrian and Non-motorized Travel<sup>188</sup>**

Enhanced opportunities for non-motorized travel, measured as the sum of the length of all designated pedestrian and bicycle trails, paths, sidewalks, and walkways.

**(2) Parks and Trails<sup>189</sup>**

Enhanced access to public or private parks and trails, and enhanced landscaping and appearance of public or private parks and trails.

**(3) Housing Types<sup>190</sup>**

Commitment to include at least three distinct types of housing as listed in Table 11-03.1: *Table of Allowed Uses*, or as determined to be distinct housing types by the Planning Director, each of which shall be occupy at least 10 percent of the residential development land or include at least 10 percent of the residential units included in the application, at the applicant's option.

**(4) Ground Floor Activation<sup>191</sup>**

If the proposal includes residential development, commitments that 60 percent of the ground floor areas of buildings along collector and arterial streets will be designed for and occupied by uses that are in active use by occupants or users of the building or development, or by the general public and will incorporate building designs that help activate street frontages to encourage pedestrian use. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that are not accessible from the street frontage.

**(5) Building Design<sup>192</sup>**

Enhanced building design through compliance with more of the Citywide or Downtown Design Standards and Guidelines (as applicable) or performance of such design standards and guidelines at a higher level of quality or visual interest, as determined by the Planning Director.

**(6) Utility Services and Green Infrastructure<sup>193</sup>**

Enhanced protection of, or enhanced quality of service from, water, sewer, stormwater, electric, gas, and telecommunications systems.

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<sup>187</sup> Replaces current 11-07-06.5.B. requirement to only provide at least two amenities to require all amenities listed.

<sup>188</sup> Broadens current 11-07-06.5.B(1)(e), "A Class I public bicycle circulation system to connect to existing or planned routes on the periphery of the development. Such facilities shall be designed and constructed in accordance with the Bicycle Pedestrian Design Manual for Ada County."

<sup>189</sup> Broadens current 11-07-06.5.B(1)(d), "Public access to or additions to the Boise River Greenbelt, neighborhood park system or other public open space."

<sup>190</sup> Replaces current 11-07-06.5.E. and introduces a new 10% requirement for each of at least three different housing types.

<sup>191</sup> New.

<sup>192</sup> New.

<sup>193</sup> New.

**(7) Electric Vehicle Charging Stations<sup>194</sup>**

For Multifamily Dwellings, one parking space per 25 required spaces installed with a Level 2 or DC Fast Charger Electric Vehicle Charging Station.

**C. Additional Eligibility Requirements<sup>195</sup>**

Each PUD application shall include two of the following three elements, to be selected by the applicant, each of which shall include a higher level of performance than otherwise required by this Code or other adopted City or governmental regulations, as determined by the Planning Director:

**(1) Natural Systems<sup>196</sup>**

Commitments to permanently protect and manage natural systems and resources on a larger percentage of the project site than otherwise required by this Code.

**(2) Housing Affordability<sup>197</sup>**

Commitments to deed-restrict at least 10 percent of residential units for households earning at or below 60 percent of the Area Median Income for the Boise, Idaho area, as determined by the U.S. Department of Housing and Urban Development.

**(3) Sustainable Building Design<sup>198</sup>**

Commitments that the project will include conforms with sustainable building practices Silver Certification by the U.S. Green Building Council (USGBC) Leadership in Energy and Environmental Design (LEED) rating system or the City of Boise Green Building Code.

**3. Identification of Base Districts from Which Flexibility is Requested<sup>199</sup>**

Each PUD application shall identify which base zoning district established in this Code shall apply in each area of the PUD unless varied by the terms of the PUD.

**4. Areas of Flexibility Permitted<sup>200</sup>**

Each PUD application may request only the following types of adjustments from base zoning district standards:

- A.** Minimum lot sizes;
- B.** Increased residential development density;
- C.** Increased nonresidential development intensity;
- D.** Reduced or reorganized internal building setbacks; and
- E.** Additional types of housing.

<sup>194</sup> New

<sup>195</sup> New.

<sup>196</sup> New.

<sup>197</sup> New.

<sup>198</sup> Replaces current 11-07-06.5.B(1)(a), "Energy conservation measures such as solar energy, heating, or water heating capacity or water conservation measures such as the use of drought- tolerant plants." Reference to Boise Green Building Code added in Consolidated Draft.

<sup>199</sup> New.

<sup>200</sup> New clarification of the types of standard that can be adjusted from base zoning districts.

## 11-02-07. Overlay Districts<sup>201</sup>

The menu of overlay districts has been significantly revised and simplified. The current Boise Zoning Code uses this tool more often than is necessary, because the included provisions could often be included in base zoning district standards drafted to apply only in certain areas or to certain types of development. Overuse of overlay districts complicates Code administration and undermines user-friendliness because (1) the relationship between overlay district standards and base district standards is often confusing, because different terminology is used and often has unpredictable impacts when applied to different base district standards, and (2) more overlay districts create more opportunities for multiple overlays to apply to an individual property, and it is often difficult to determine how to reconcile conflicts between different overlay provisions. For those reasons, several of the current overlays have been removed and their substantive controls relocated to other portions of the Code including the Design Review, Downtown Design Review, University, Health Services, and parking overlay districts.

### 1. Character Protection Overlay Districts<sup>202</sup>

#### A. Purpose

Character protection overlay districts are intended to preserve the character of neighborhoods subject to the overlay and to protect unique areas of the city from inappropriate development. A character protection overlay district is usually applied to residential neighborhoods with certain identifiable attributes embodied in architecture, urban design, geography, or history. A character protection district can be used to protect neighborhoods from changes that would otherwise be allowed by the underlying zoning.

#### B. Designation of Character Protection Districts

Character protection districts shall be designated by ordinance. Neighborhoods or areas selected for consideration for a character protection district designation shall meet at least one of the following criteria:

- (1) Has a distinctive character with identifiable attributes embodied in architecture, use, urban design, or history that make it a unique and integral part of the city's identity; or
- (2) Has a recognized neighborhood identity and a definable physical character that may have a high artistic value or a relationship to urban centers or historic districts and that makes the area's conservation significant to the city's history or function.

#### C. Establishment of Character Protection District

- (1) Character protection district provisions may apply additional requirements or allow exceptions to the standard regulations of the base zoning district.
- (2) Prior to adoption of a character protection district ordinance in a district that may be of historic significance as determined by the Planning Director, the Historic Preservation Commission shall have the opportunity to review and comment on the proposed ordinance.

<sup>201</sup> The existing parking, University and Health Services overlay districts are not carried forward in this draft. The current East Fairview Avenue overlay district was adopted as an interim measure pending other Code updates, and is not carried forward.

<sup>202</sup> Current Sections 11-05-02.1 (Conservation Overlay Districts) and 11-05-04 (Neighborhood Overlay Districts) have been consolidated. Minor wording changes for internal consistency, and names of base zoning districts and specific uses revised to reflect proposed new names for those uses and districts. The East Fairview Avenue overlay was approved as an interim measure, and is not carried forward. Additional Character Protection overlay districts may be designated by City Council action in the future, which avoids the need to create additional base zoning districts for narrow purposes.

- (3) Prior to recommending an area for designation as a character protection district, the Planning and Zoning Commission shall:
  - (a) Conduct any necessary studies, research, or investigations;
  - (b) Assess neighborhood and landowner support; and
  - (c) Prepare a report containing recommendations.
- (4) Character protection districts shall be approved as described in Section 11-05-05.4.J, *Zoning Map Amendment* (Rezoning, including Planned Unit Development), for procedures to establish a district.

**D. HC-O: Hyde Park Character Overlay<sup>203</sup>**

**(1) Purpose**

The purpose of the HC-O District is to maintain the historical commercial district as a functioning community asset and maintain a mix of commercial, office and residential uses. The district encourages land uses that are determined to be key to the district's long-term health and sustainability. The district regulations are intended to protect the historical and architectural character of Hyde Park and establish parking standards for this area. Parking requirements are on a graduated scale for certain uses to encourage street-level retail and restaurants as well as second story office uses. Shared parking is encouraged to reduce the need for surface parking.

**(2) Boundary Map**



**Figure 2-7. Hyde Park Character Overlay District Boundaries**

**(3) Uses**

The following uses are prohibited:

<sup>203</sup> Carried forward current Section 11-05-02.2.

- (a) Parking garages; and
- (b) New off-site parking lots. On-site parking lots used as leasable off-site parking that existed prior to March 14, 2006, may continue to be used.

**(4) District Parking Standards<sup>204</sup>**

- (a) Parking requirements shall follow Table 11-02.34, below.

| TABLE 11-02.34: PARKING ALLOWANCES IN THE HC-O |  |                         |
|--|--|-------------------------|
| LAND USE                                       | GRADUATED SCALE OF USE/UNIT OF MEASURE | REQUIRED PARKING SPACES |
| <b>Restaurant</b>                              |  |                         |
|  | 0 - 40 seats                           | 1 per 20 seats          |
|  | 41 - 80 seats [1]                      | 1 per 10 seats          |
|  | Over 81 seats [1]                      | 1 per 2 seats           |
| <b>Retail</b>                                  |  |                         |
|  | 0 - 750 square feet                    | 1                       |
|  | 751 - 2000 sq. ft. [1]                 | 1 per 300 sq. ft.       |
|  | Over 2001 sq. ft. [1]                  | 1 per 200 sq. ft.       |
| <b>Office</b>                                  |  |                         |
|  | Street level                           | 100 sq. ft.             |
|  | Upper floor                            | 300 sq. ft.             |
| <b>Notes:</b>                                  |  |                         |
| [1] Parking requirements are cumulative.       |  |                         |

- (b) Outdoor or seasonal seating shall be counted as regular seating and is required to meet all parking and zoning requirements in this Code. Existing outside seating shall be considered a lawful nonconforming use.
- (c) The allotment of parking for each business is available in the Planning and Development Services Department.
- (d) Tandem parking is permitted in rear yards with alley access, provided setbacks and appropriate backup requirements are met.
- (e) All off-site parking shall have a valid contract. This contract shall state:
  - i. The location of the parking space(s);
  - ii. The contract is binding on all successors and run with the land;
  - iii. How the parking spaces are to be maintained and who is responsible;
  - iv. That the parking cannot be revoked without prior approval of the City, and must show revocation for good cause; and
  - v. Provide 60 days notice of termination to the City.

**E. NC-O: Near North End Character Overlay**

**(1) Purpose**

The purpose of the NC-O District is to:

- (a) Encourage continued residential uses;

<sup>204</sup> Current Table 11.05.3 (Hyde Park Parking Space Allotment Chart) removed at the request of staff because it is outdated and difficult to update/enforce.

- (b) Protect the historical and architectural character of the neighborhood using adaptive reuse methods;
- (c) Encourage redevelopment and renovation of established historic institutional uses;
- (d) Allow for adaptive reuse of existing structures for multiple-family residential and office uses;
- (e) Minimize demolition of structures for parking lots or new office developments; and
- (f) Maintain the district as a transitional area between the commercial intensity of downtown and the predominant single-family residential neighborhoods of the north end.

## (2) Map and Boundaries

### (a) Boundary Map<sup>205</sup>

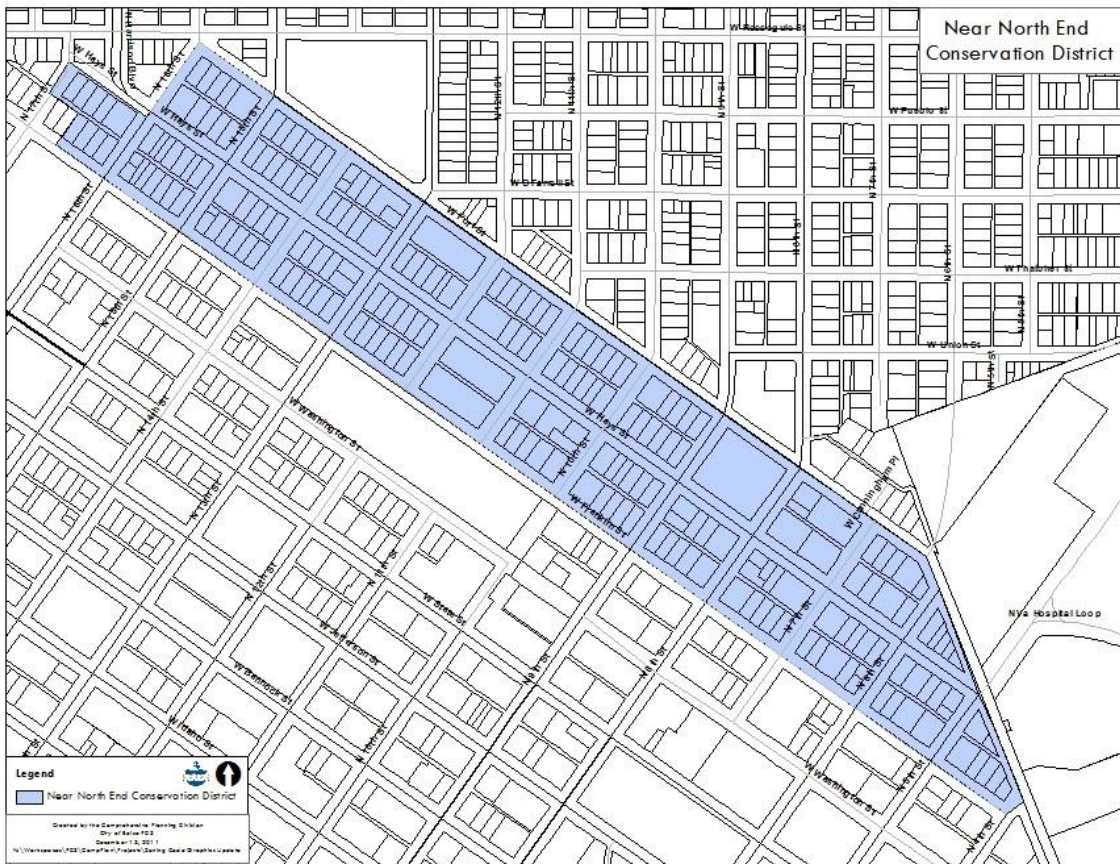


Figure 2-8. Near North End Character Overlay District Boundaries

## (3) Standards

The following restrictions and allowances beyond the requirements of the base zoning district shall apply:

<sup>205</sup> Deleted boundary description text.



**(a) Parking Allowances for Adaptive Reuse in the MX-1<sup>206</sup> And R-3 Zone**

Tandem parking may be allowed for the adaptive reuse of a Single-Family Detached or Single-Family Attached Dwelling for office or multiple-family residential or historic institutional use may be granted the following allowances for parking requirements:

- i. Tandem parking in the rear yard, with alley access, is permitted.
- ii. Shared parking agreements and parking joint use agreements are required to the maximum extent practicable.<sup>207</sup>

**(b) Adaptive Reuse Limitation for Additions**

Buildings that are adaptively reused pursuant to the provisions of this Section may be expanded in size up to 50 percent from what existed on August 21, 2001, provided:

- i. The expanded portion is in keeping with the architecture of the existing building; and
- ii. The site is large enough to accommodate the required number of off-street parking spaces without the granting of a Variance for setbacks or landscaping.

**(c) Off-Site Parking Structure Allowances for Historical Institutional Uses**

Off-site Parking Garages designed to blend with the predominate architectural theme of the surrounding area and that include a significant residential component, may be considered by the Historic Preservation Commission through the Conditional Use Permit process.

**(d) Standards for Parking Structures and Lots in the NC-O District**

- i. An off-site Parking Garage for a historical use may be allowed by Conditional Use Permit provided that it is designed to blend with the predominant architectural theme of the surrounding area and that it includes a significant residential component.
- ii. New off-site Parking Lots are prohibited, except on parcels demonstrated to have been vacant on or before August 21, 2001. This prohibition shall not preclude the use of existing on-site Parking Lots as "for rent" off-site parking.
- iii. Where the base zoning district is R-3, on-site surface parking lots larger than 2,500 square feet are prohibited, unless incorporated within a new residential use or within and as part of the renovation, redevelopment, or expansion of a historic institutional use. As used in this paragraph, the phrase "incorporated within" shall mean located in an interior or rear yard of a development so that it is not visible from the public street.

**F. BC-O: Big Sky Overlay<sup>208</sup>****(1) Purpose**

The purpose of the BC-O district is to:

- (a)** Preserve the large lots and open character of the Big Sky Neighborhood;

<sup>206</sup> Changes from current L-O district.

<sup>207</sup> Vague "encouraged" text replaced by maximum extent practicable standard – which is defined and more objective.

<sup>208</sup> Carried forward current Section 11-05-04.1. Definitions of small animals and large animals were relocated to the Definitions Chapter for consistency.

- (b) Retain the rural personality of this unique location; and
- (c) Encourage agrarian uses through more flexible standards to maintain, protect, and enhance land use and livability.

## (2) Boundary Map

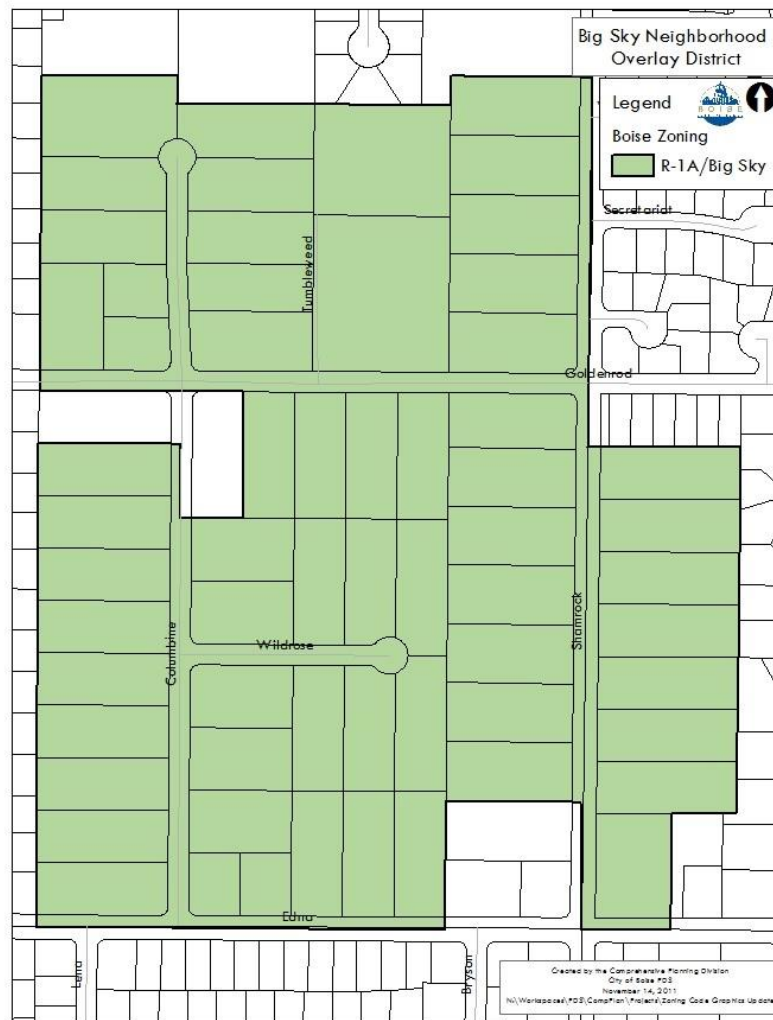


Figure 2-9. Big Sky Neighborhood Overlay District Boundaries

## (3) Residential Standards

### (a) Setbacks

- i. New residential buildings, additions to existing residential buildings, and detached outbuildings greater than 500 square feet or 15 feet in height shall be subject to the following setback standards:
  - A. Front setbacks as measured from the property line shall be 35 feet minimum, 85 feet maximum, and within five feet of the average setbacks of the adjacent properties.
  - B. Side and rear setbacks shall be a minimum of 20 feet from the property line.



- ii. Detached outbuildings with an area of up to 500 square feet and height less than 15 feet may have a reduced side and rear setbacks of 10 feet from the property line.

**(b) Enclosed Garage**

Dwelling units, including each unit of a Duplex Dwelling, shall have an enclosed garage with an interior dimension of at least 20 feet wide by 20 feet long.

**(c) Entrances to Residential Units**

Front doors of residential units shall face the street.

**(d) Duplex Dwelling Standards**

Duplex Dwellings in the BC-O district shall be subject to the specific design criteria as per Section 11-03-03.2.G, *Dwelling, Duplex, Triplex, or Fourplex*, and agricultural and setback standards described in Subsection (4), below.

**(4) Livestock Standards**

The keeping of livestock and agricultural uses in the BC-O district shall be subject to the standards of Section 11-03-03.6.G, and the standards in this Section. Where the standards of this Section conflict with 11-03-03.6.G, this Section shall control.

**(a) Allowed Uses**

The keeping of livestock, small animals, and similar or related agricultural uses are allowed in the BC-O district subject to the regulations of this Section.

**(b) Minimum Lot Area for Large Animals**

A minimum lot area of one-half acre is required for large animals as defined in this Code.

**(c) Animal Reserve Area**

A minimum area of one-half acre is required for the keeping and care of two animal units. Stables, paddocks, barns, and similar structures may be counted as part of the reserve area, but structures other than those related to the care of animals shall not be counted as part of the reserve area.

**(d) Minimum Lot Area and Location for Small Animals**

No minimum lot area is required for keeping small animals as defined in this Code. All animal units and small animals shall be kept behind the front of the principal dwelling.

**(e) Animal Density Standards**

- i. The maximum animal density shall be two animal units per one-half acre of reserve area. Additional reserve areas shall be added in one-half-acre increments to calculate the allowed number of animal units allowed on a particular parcel.
- ii. The keeping of chickens in conjunction with the keeping of large animals is an exception to animal density standards. Up to six mature chickens may be kept simultaneously in addition to the large animals allowed per lot based on the density standard.

**(f) Setbacks and Enclosures**

- i. Concentrated feeding areas and buildings housing animals shall be located behind the front of the principal dwelling. Buildings for housing animals must also comply with the setback standards for the BC-O.
- ii. Livestock shall be kept within enclosures such that the livestock is prevented from encroaching on, and/or damaging, neighboring properties, fences, or vegetation or public streets. Enclosures may include but are not limited to fences, corrals, barns, and pens.

**(g) Best Management Practices (BMPs)**

- i. Best management practices (BMPs) are intended to protect surface and ground water quality and to avoid any adverse impact to wells, irrigation ditches, and other beneficial uses. A BMP is defined as a practice or combination of practices which are the most effective, practicable means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals. The following BMPs shall be met:

**A. Fencing**

Enclose one or more areas on the site with a permanent fence or structure to function as a barrier to livestock and other animals as needed in order to prevent access to and protect streams, canals, and ditches from trampling, erosion, and contamination.

**B. Filter Strips for Streams, Canals and Ditches**

Maintain a gently sloping strip of ground over vegetation to filter runoff from that portion of the site occupied by animals. Filter strips shall distribute waste matter uniformly across the high end of the strip and allow waste to flow through and across the strip; promote the filtering of nutrients, runoff water, and other materials through the grass in a manner in which they are absorbed by the soil, an ultimately taken up by the plants.

**C. Runoff Control System**

Employ a combination of practices to prevent animal waste runoff to surface water and adjacent properties. Practices may include diversion of runoff from the lot, roof runoff systems, lot shaping, settling basins, and filter strips or buffer areas.

**D. Liquid and Solid Waste Management System**

Employ a system for managing liquid and solid waste in a manner that:

- (i) Ensures fecal matter and other solid wastes do not create or promote nuisances, odors and disease-carrying insects and animals; and
  - (ii) Does not degrade air, soil, or water resources. The appropriate system shall typically include the frequent spreading of liquid and solid waste, composting of manures, and off-site disposal.
- ii. Additional BMPs shall be required if those listed above are shown to be ineffective. If a resident does not properly maintain or use BMPs, then the

resident shall immediately cease the keeping of animals. The owner or resident can consult the following agencies for additional technical assistance:

- A. Ada Soil Conservation District.
- B. Natural Resources Conservation Service.
- C. Idaho Soil Conservation Commission.
- D. University of Idaho Extension Service.
- E. Boise City Public Works Department.

## G. SC-O: Sycamore Overlay

### (1) Purpose

The purpose of the SC-O district is to preserve and encourage land use and development that is consistent with the semi-rural, agricultural character and lifestyle of the Sycamore neighborhood, while promoting the public health, safety, and general welfare of present and future residents of the neighborhood and Boise City.

### (2) Boundary Map



Figure 2-10. Sycamore Neighborhood Overlay District Boundaries

### (3) Specific Standards

#### (a) Setbacks

Excluding lots fronting on 39th, Catalpa, and Taft Streets, the required setback for buildings and parking areas on vacant or undeveloped lots is determined by the

average setback of the primary building on the two adjoining lots abutting the same street. The required setback shall not be less than 20 feet or greater than 40 feet. Additions to existing buildings in the SC-O district are also subject to this setback standard.

**(b) Agricultural Standards**

The keeping of livestock, small animals, and similar or related agricultural uses shall be subject to the generally applicable use standards of Section 11-03-03.6.G, and the standards in this Section (b). Where the standards of this Section (b) conflict with the generally applicable standards, this Section (b) shall control.

**i. Allowed Uses**

The keeping of livestock, small animals, and similar or related agricultural uses are allowed subject to the regulations of this Section.

**ii. Minimum Lot Size**

A minimum lot or parcel size of 21,780 square feet (one-half acre) is required for large animals as defined in this Code. The area of the lot or parcel used for any human dwelling shall be included when computing the one-half acre minimum lot size needed to qualify for large animals.

**iii. Animal Reserve Area**

A minimum animal reserve area of 10,890 square feet (one-quarter acre) is required for the keeping and care of large animals. Stables, paddocks, barns, and similar structures may be counted as part of the reserve area, but structures other than those related to the care of animals shall not be counted as part of the reserve area.

**iv. Area for Small Animals**

No minimum lot area is required for keeping small animals as defined in this Code, although small animals are subject to the animal density standards. All small animals as defined shall be kept behind the front of the principal dwelling.

**v. Animal Density Standards**

**A.** The maximum animal density for large animals shall be one animal unit per one-quarter acre of reserve area. The reserve area shall be used to calculate the allowed number of large animals allowed on a particular parcel. For reserve areas larger than one-quarter acre, the one animal unit: one-quarter acre ratio shall be applied to determine the allowed number of animals. Shared reserve areas on adjacent lots may be added to the owner's reserve area to calculate the number of large animals allowed on the owner's lot.

**B.** The maximum animal density for small animals shall be one animal unit per one-quarter acre of land area behind the front of the principal dwelling. The area used for calculating the allowed number of small animals shall not include land occupied by any building not used for housing the animals. For areas of land different from one-quarter acre, the one animal unit: one-quarter acre ratio shall be applied to determine the allowed number of animals.

- C. The keeping of chickens in conjunction with the keeping of large animals is an exception to animal density standards. Up to six chickens may be kept simultaneously and in addition to the large animals allowed per lot based on the density standard.
- D. No more than one rooster shall be kept on any single parcel, regardless of the size of the parcel.

**vi. Site Plan**

As deemed necessary, the Planning Director may require the owner or resident to submit a site plan, subject to approval, for the purpose of determining the amount of land available on a particular site for the keeping of animals pursuant to the standards of this Section.

**vii. Setbacks for Concentrated Feeding Areas, Buildings, and Pasture and Reserve Areas**

Concentrated feeding areas and buildings housing animals shall be located behind the front of the principal dwelling and a minimum of 10 feet from all property lines. Fully enclosed buildings shall comply with the setback standards for the base zoning district and, therefore, may in some cases be set back less than 10 feet from the property line. Pasture or reserve areas shall be located behind the front of the principal dwelling, and may otherwise be located at the side and rear property line.

**viii. District Perimeter Setback**

Animal reserve areas for large animals shall be set back a minimum of 30 feet from any residential lot located outside the SC-O district.

**ix. Enclosures Required**

Livestock shall be kept within enclosures that prevent animals from encroaching on neighboring properties or public streets. Enclosures may include, but are not limited to fences, corrals, barns, or pens.

**x. Best Management Practices**

The owner or resident shall use Best Management Practices (BMPs) to protect surface and ground water quality and to avoid any adverse impact to wells and other beneficial uses. A BMP is defined as a practice or combination of practices that are the most effective, practicable means of preventing or reducing the amount of pollution generated by non-point sources to a level compatible with water quality goals. Any owner or resident intending to keep livestock and other animals pursuant to this Section shall implement the following BMPs:

**A. Fencing**

Enclose one or more areas on the site as needed with a permanent fence or structure to function as a barrier to livestock and other animals to prevent access to and protect streams, canals, and ditches from trampling, erosion, and contamination.

**B. Filter Strips for Streams, Canals, and Ditches**

Maintain a gently sloping strip of ground cover vegetation to filter runoff from the portion of the site occupied by animals. Filter strips shall distribute waste matter uniformly across the high end of the strip and allow waste to flow through and across the strip and shall promote the filtering of nutrients, runoff water, and other material through the grass so that they can be absorbed by the soil and ultimately taken up by the plants.

**C. Runoff Control System**

Employ a combination of practices to prevent animal waste runoff to surface water and adjacent properties. Practices may include diversion of runoff from the lot, roof runoff systems, lot shaping, settling basins, and filter strips or buffer areas.

**D. Liquid and Solid Waste Management System**

Employ a system for managing liquid and solid waste in a manner that: a) ensures fecal matter and other solid wastes do not create or promote nuisances, odors and disease-carrying insects and animals, and b) does not degrade air, soil, or water resources. The appropriate system shall typically include the frequent spreading of liquid and solid waste, composting of manures, and off-site disposal.

**xi. Additional BMPs**

Additional BMPs shall be required if those BMPs listed above are shown to be ineffective. The owner or resident can consult the following agencies for additional technical assistance:

- A.** Ada Soil Conservation District Natural Resources Conservation Service
- B.** Idaho Soil Conservation Commission
- C.** The University of Idaho Extension Service
- D.** Boise Public Works Department.

**xii. Periodic Assessment**

At five year intervals,<sup>209</sup> the residents and property owners in the SC-O district and the Planning Director shall assess the impact and effectiveness of the standards of this Section in protecting residents and owners of the district and those outside the district from unwanted impacts.

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**2. Design Review Overlay Districts**

**A. CD-O: Capitol Boulevard Design Overlay<sup>210</sup>**

**(1) Purpose**

The purpose of the CD-O district is to recognize the importance of Capitol Boulevard and to protect and enhance its special character. Capitol Boulevard is one of the principal

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<sup>209</sup> Increased current three year intervals to five year intervals to simplify administration.

<sup>210</sup> Carried forward current Section 11-05-03.1. The current D (Design Review) overlay district and the current DD (Downtown Design Review) overlay district do not appear in this Section. Since these extensively used design standards collectively apply to all buildings of defined types throughout the city, the required design standards have been consolidated with other building-specific



gateway streets in the State of Idaho. It links two of the most important historic buildings in the city - the State Capitol and the Boise Depot. In between these buildings lie a variety of uses that are of importance to the community, including cultural centers and parks, Boise State University, hotels, retail establishments, and restaurants.

## (2) Boundary Map<sup>211</sup>

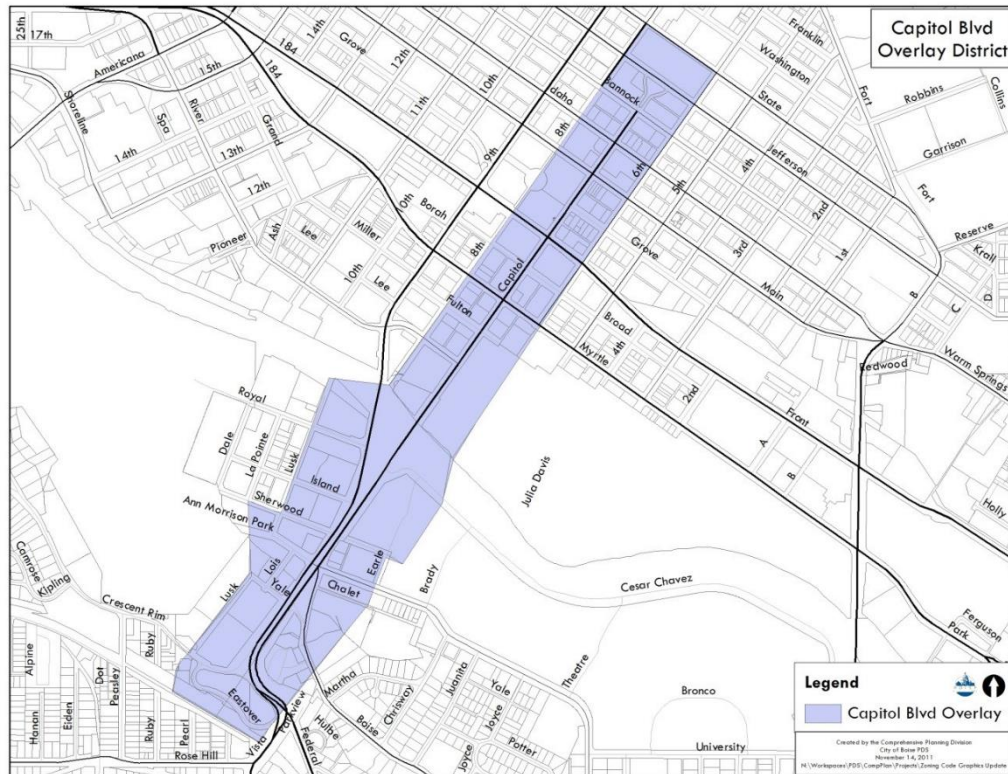


Figure 2-11. Boundary of Capitol Boulevard Special Design District

## (3) District Subareas

The District is divided into four areas:

### (a) Downtown Corridor

Both sides of Capitol Boulevard from centerline of Front Street north to the centerline of State Street.

### (b) Central Corridor

Both sides of Capitol Boulevard from centerline of Front Street south to the Boise River.

### (c) Entrance Corridor

East side of Capitol Boulevard from the Boise River to the Depot.

design standards in Chapter 11-04. This allows the remaining current design review overlays, (Capitol Boulevard and East Fairview) to be mapped and treated as more specific and detailed design standards for discrete areas that supersede the general design standards (from the previous D and DD districts) that apply to specific types of buildings in those areas). The current Design Review process will continue to apply, and would apply either the relocated and updated D and DD design standards or the Capitol Boulevard and East Fairview standards in this Section.

<sup>211</sup> Deleted boundary description text.

**(d) Exit Corridor**

West side of 9th Street and Capitol Boulevard from the Boise River south to the Depot.

**(e) Subareas Boundary Map**



Figure 2-12. Subareas Map of Boulevard Special Design District

**(4) Design Review Permit**

Minor or Major Design Review, as applicable pursuant to Sections 11-05-05.2.D and 11-05-05.3.C, is required for the following:

- (a) Increase in building size by 10 percent or in parking lot size by 25 percent;
- (b) Replacement of more than 25 percent of a building;
- (c) Any new building or parking lot; or
- (d) A facade remodel that uses different materials and design features (a color change or the addition of non-permanent features such as fabric awnings are not subject to Design Review).



**(5) Standards**

**(a) Streetscape Requirements**

Streetscape improvements for Capitol Boulevard shall comply with the adopted Capitol Boulevard Streetscape Master Plan Master Plan.

**i. Applicability**

The streetscape improvements shall be required and shown on the development plans when:

- A.** Constructing a new building or parking lot;
- B.** Constructing an addition greater than 30 percent of the original square footage of the building, provided the addition is greater than 2,500 square feet gross floor area; or
- C.** Constructing a parking lot addition along Capitol Boulevard that is greater than 50 percent of an existing parking area.

**ii. Standards**

**A. Downtown Corridor from Jefferson Street to Front Street**

For each section of the Corridor, required improvements include, but are not limited to:

- (i)** Brick streetscape shall remain along the west side of Capitol Boulevard from Bannock Street to Front Street.
- (ii)** Streetscape upgrades consistent with the "Urban Sidewalk - Brick" prototype in the Capitol Boulevard Streetscape Master Plan along the east side of Capitol Boulevard from Bannock Street to Front Street shall be considered at the time of application review.
- (iii)** 10 foot wide detached sidewalk and nine foot wide landscape strip adjacent to the street, with street trees, shrubs, and historic street lights along both sides of Capitol Boulevard from Bannock Street to Jefferson Street.

**B. Central Corridor Front Street to Fulton Street**

For each section of the Corridor, required improvements include, but are not limited to:

- (i)** Relocated curb to form a 52 foot wide road Section measured curb to curb.
- (ii)** Sidewalks with brick dry-laid pavers.
- (iii)** Planters with street trees, shrubs, and low steel fencing, as shown in the Capitol Boulevard Streetscape Master Plan.
- (iv)** Furnishing zone with historic street lights as shown in the Capitol Boulevard Streetscape Master Plan.
- (v)** Benches, litter receptacles, movable planters, bicycle racks, & newsstands as shown in the Capitol Boulevard Streetscape Master Plan.
- (vi)** Kiosks, public art, and transit stops may be considered.

**C. Central Corridor Fulton Street to the Boise River**

For each section of the Corridor, required improvements include, but are not limited to:

- (i) Relocated curb to form a 52 foot wide road Section (curb to curb).
- (ii) Concrete sidewalks.
- (iii) Landscape strips with lawn and street trees.
- (iv) Historic street lights.

**D. Entrance and Exit Corridors**

For each section of the Corridor, required improvements include, but are not limited to:

- (i) Concrete sidewalks.
- (ii) Landscape strips with lawn, shrubs, or street trees.
- (iii) A second row of deciduous trees.
- (iv) Historic street lights.
- (v) Bus stop shelters at select locations.

**(b) Building and Structure Setbacks**

**i. Downtown Corridor**

The setbacks of the underlying zoning district shall apply, except a 25 foot setback from the property line is required along Capitol Boulevard for any portion of a structure that is 45 feet or higher.

**ii. Central Corridor**

Minimum setbacks shall be as follows:

- A.** 45 feet from the centerline of Capitol Boulevard for structures up to 45 feet in height.
- B.** 75 feet from the centerline of Capitol Boulevard for any portion of a structure that is higher than 45 feet.
- C.** Only approved awnings, canopies, or similar projections may encroach into the public right-of-way.

**iii. Entrance and Exit Corridors**

Minimum setbacks shall be as follows:

- A.** 20 feet from the property line along Capitol Boulevard for structures less than 45 feet in height.
- B.** 35 feet from the property line along Capitol Boulevard for any portion of a structure that is higher than 45 feet.

**iv. Required Improvements Within Entrance and Exit Corridor Setback Areas**

At-grade setback areas shall include landscaping, and one or more of the following:

- A.** An extension of the streetscape, such as a pedestrian space or a plaza utilizing benches, pavers, and other design elements;

- B.** Sculptures, public art, or architectural design features;
- C.** Canopies and other external decorative features, provided they do not encroach more than 30 percent into the setback;
- D.** Sign(s); and
- E.** Low decorative masonry walls of three feet or less (see also Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*).

**(c) Parking Lot Setbacks and Requirements**

**i. New Structures and Lots**

New detached structures and parking lots along Capitol Boulevard shall comply with the following:

**A. Downtown Corridor**

Parking lots shall be located below or behind buildings facing Capitol Boulevard.

**B. Central, Entrance, and Exit Corridors**

Parking is allowed along the sides of the building provided the width of the parking area does not exceed 50 percent of the site frontage along Capitol Boulevard. Parking shall not be located closer to Capitol Boulevard than the building, and shall not be allowed closer than 20 feet from Capitol Boulevard.

**ii. Parking Lot Screening**

Parking lots shall be screened using one or more of the following, unless otherwise approved by the DRC.

**A.** Decorative masonry screen walls that may include wrought iron fencing. The maximum length without modulation shall not exceed 30 feet.

**B.** Landscaping plantings that provide year-round screening.

**(d) Building Design**

Buildings shall be designed to the highest standards with consideration of the following:

- i.** All building facade materials should be high quality to enhance the appearance of Capitol Boulevard including, but not limited to stone, brick, or tile.<sup>212</sup> The same facade materials or other architecturally compatible facade materials should be used for all exposed building walls and other architectural features.
- ii.** Architectural style is not to be restricted; however the appearance of the building shall be reviewed based on the use of materials and color, the quality of design, use of architectural details, and compatibility with the overall Boulevard development.
- iii.** Blank walls facing Capitol Boulevard are not allowed.
- iv.** Buildings located on corner sites that can be viewed from Capitol Boulevard should be given significance through the use of architectural elements, special materials, or height.

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<sup>212</sup> Examples of qualifying materials have been added.

- v. Distinctive roof or other termination of the building facade.
- vi. Windows, doors, eaves, and parapets should be proportional to one another.
- vii. New buildings and any modifications to historic buildings shall comply with the Design Guidelines for Boise City's Historic Commercial Districts and the Secretary of the Interior Guidelines.
- viii. Canopies and awnings at street level should not be illuminated and should be functional for purposes of pedestrian use.
- ix. Mechanical equipment should be well screened from public right-of-way with materials that are harmonious to the building.
- x. Utilities shall be installed underground, except for transportation facilities.

**(e) Lighting**

Low pedestrian and landscape lighting is encouraged and street lighting shall conform to the Capitol Boulevard Streetscape Master Plan.

**(f) Vehicular Access**

- i. Curb cuts shall be limited to encourage pedestrian activity.
- ii. Access points shall be defined with landscaping or other decorative elements.

**(g) Restrictions Along Capitol Boulevard**

The following shall not front on to Capitol Boulevard:

- i. Off-street service and loading areas;
- ii. Trash dumpsters;
- iii. Outdoor storage areas;
- iv. Fuel pumps; and
- v. Drive-up windows.

**(h) Signage**

Sign standards for the CD-O district shall be as indicated in Section 11-04-011, *Signs*.

**B. HD-O: Historic Design Overlay<sup>213</sup>**

**(1) Purpose**

The purpose of the HD-O is to promote the educational, cultural, and economic welfare of the public by engaging in a comprehensive program of historic preservation to promote, preserve and protect historic buildings, structures, sites, monuments, streets, squares, and neighborhoods which serve as visible reminders of the historical, archeological, architectural, educational, and cultural heritage of the city. It is the further purpose of this Section for the social, economic, and environmental advantages of the city to promote the use and conservation of such property, to stabilize and improve property values in historic areas, and to encourage new buildings and developments that will be harmonious with the existing historical, archeological, architectural, educational, and cultural buildings, structures, sites, streets, squares, and neighborhoods.

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<sup>213</sup> Carries forward selected parts of current Section 11-05-09. All content from Sections 11-05-09.2 through 09.5 related to the organization and powers, and funding of the Historic Preservation Commission, and all content from Sections 11-05.09.6 through 10 related to the procedures relocated to Chapter 11-05, Administration and Procedures. All content related to application forms and submittal requirements will be relocated to the City's website.

**(2) Applicability<sup>214</sup>**

These provisions apply to all properties in the HD-O district. In the case of properties located in both the HD-O district and a Character Protection Overlay district listed in Section 11-02-07.1, the provisions of this Section 11-02-07.2.B shall apply.

**(3) Criteria for Designation**

Historic Districts and Historic Landmarks shall be designated by ordinance as described in Sections 11-05-05.4.E(2) and 11-05-05.4.E(3) The buildings, sites, structures, and objects of a Historic District shall meet one of the following three criteria:

**(a) Historical or Cultural Importance**

- i. Has significant character, interest, or value, as part of the development, heritage or cultural characteristics of the city, state, or nation; or is associated with the life of a person significant in the past;
- ii. Is the site of an historic event with a significant effect upon society;
- iii. Exemplifies the cultural, political, economic, social, educational, or historic heritage of the community;
- iv. By being part of or related to a street, square, park, or other distinctive area, should be developed or preserved according to a plan based on historic, cultural, or architectural motif; or
- v. Owing to its unique location or singular physical characteristic, represents an established and familiar visual feature of the neighborhood, community, or city; or

**(b) Architectural Importance**

- i. Portrays the environment in an era of history characterized by a distinctive architectural style;
- ii. Embodies those distinguishing characteristics of an architectural-type or engineering specimen;
- iii. Is the work of a designer, architect, or craftsman whose individual work has significantly influenced the development of the city, state, or nation; or
- iv. Contains elements of design, detail, materials, or craftsmanship which represent a significant innovation; or

**(c) Archeological Importance**

- i. Has yielded or may be likely to yield, information important in pre-history or history; or
- ii. Contains or is likely to contain physical remains, such as fossils, relics, monuments, art, or symbols, of past human life and activities.

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<sup>214</sup> New provisions to avoid the need to apply and reconcile two (often conflicting) sets of design standards. This carries forward the general practice of not applying other design standards in designated historic protection districts.

**(4) State Property<sup>215</sup>**

Nothing in this Section 11-02-07.2.B or related to historic preservation or designation shall be construed to allow the designation, regulation conditioning, restriction or acquisition of historic buildings, structures, sites or areas, or other properties or facilities owned by the state or any of its political subdivisions, agencies, or instrumentalities.

**(5) Acquisition of Property**

All lands, buildings, structures, sites, or areas acquired by funds appropriated by the City shall be acquired in the name of the City unless otherwise provided by the governing board. So long as owned by the City, historic properties may be maintained by or under the supervision and control of the City.

**(6) Acquisition of Historic Easements**

- (a)** The City may acquire, by purchase or donation, historic easements in any area within the jurisdiction of the city wherever and to the extent City Council determines that the acquisition will be in the public interest.<sup>216</sup>
- (b)** The City Council shall seek a recommendation from the Historic Preservation Commission regarding the historic easement and proposed resolution.

**(7) Ordinary Repairs - Public Safety**

Nothing in this Section 11-02-07.2.B or related to historic preservation or designation shall be construed to prevent the ordinary maintenance or repair of any exterior feature in a Historic District, or of any Historic Landmark that does not involve a change in design, material or outer appearance thereof, nor to prevent the construction, reconstruction, alteration, restoration or demolition of any such feature when the Building Official shall certify such is required for the public safety because of an unsafe or dangerous condition.

**(8) Maintenance and Repair Required - Demolition by Neglect**

- (a)** Any property located within a Historic District or Residential Historic District or designated as a Historic Landmark shall be preserved by the owner, or such other person or persons as may have the legal custody or control of the property, against decay and deterioration and free from unreasonable structural defects. The owner or other person having legal custody and control of the property shall repair such resource if it is found to have one or more of the following defects, or other defects that in the judgment of the Historic Preservation Commission has a detrimental effect on the historical characteristics of the property or district.
  - i.** The deterioration of exterior walls or other vertical supports;
  - ii.** The deterioration of roofs or other horizontal members;
  - iii.** The deterioration of exterior chimneys;
  - iv.** The deterioration or removal of exterior finishes or fenestration;
  - v.** The ineffective waterproofing of exterior walls, roofs and foundations including broken windows or doors; and

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<sup>215</sup> Subsections (4) through (11) carry forward current 11-05-09.11 through 11-05-9.17. Some Subsections were reworded to avoid repetition.

<sup>216</sup> Definition of historic easement was moved to definitions Chapter.

vi. The deterioration of any feature so as to create or permit the creation of any hazardous or unsafe condition or conditions.

(b) If the Historic Preservation Commission makes a preliminary determination that a resource is being demolished by neglect, it shall direct the Building Official to notify the owner(s) of the resource of this preliminary determination, stating the reasons therefore, and shall give the owner of record 28 days from the date of mailing of such notice to commence work to correct the specific defects as determined by the Commission.

(c) If the owner(s) fail to commence work within the time allotted as evidenced by a Building Permit, the Historic Preservation Commission shall notify the owner(s) in writing to appear at a public hearing before the Commission at a date, time, and place to be specified in the notice, which shall be mailed at least 28 days before the hearing. The Commission shall also notify in writing adjacent property owners and the registered Neighborhood Association of such hearing. The Commission shall receive evidence on the issue of whether the subject resource should be repaired and the owner(s) may present evidence in rebuttal thereto. If, after such hearing, the Commission determines that the resource is being demolished by neglect, it may direct the City Attorney to commence legal action against the owner(s) if the necessary repairs are not completed within 90 days or a time frame as specified by the Commission.

**(9) Exemption from Fire or Building Codes**

The City Council, in order to promote the preservation and restoration of any Historic Landmark, or property within a Historic District may, upon the recommendation of the Historic Preservation Commission, exempt a Historic Landmark or property within a Historic District from the application of the City Fire or Building Codes upon compliance with the criteria for exemption set forth in the Codes and upon a finding that non-exemption would prevent or seriously hinder the preservation or restoration of the Historic Landmark or property in a Historic District. Upon rescission of a historic designation, any Code exemption herein granted shall be revoked effective the date of rescission.

**(10) Notice of City Departments and Other Agencies**

In addition to all other transmittals and notices required by this Section 11-02-07.2.B, within seven calendar days after the designation by ordinance of any Historic District or Landmark, the Historic Preservation Commission shall notify all departments of the city and other governmental agencies having a regulatory or legally prescribed duty affecting such District or Landmark. The notice shall state the fact of such designation, identify the boundary of the District, or the address of the Landmark, and shall summarize the effect such designation will have.

**(11) Register of Historic Districts and Landmarks**

The Historic Preservation Commission shall maintain a current register and map of all Historic Districts and Landmarks that have been designated by ordinance. Such register and map shall be made public and available to the City departments, other governmental agencies, and any interested person.



### 3. Sensitive Lands Overlay Districts

#### A. AI-O Airport Influence Area Overlay<sup>217</sup>

##### (1) Purpose

The purpose of the AI-O district is to:

- (a) Promote development that is compatible with and protects the safe operation of the airport;
- (b) Ensure all development is compatible with the noise levels from operations at the airport;
- (c) Ensure future development within the Airport Influence Area is designed in accordance with the Airport Master Plan; and
- (d) Ensure compliance with applicable federal regulations and guidance.

##### (2) Boundary Map

[To be inserted]

##### (3) Design Standards

All new development and existing structures within the Airport Influence Areas identified by the City's most recently submitted 14 CFR Part 150 Noise Exposure Map Sound Study shall comply with the following:

- (a) All new residential development and new Schools in Airport Influence Area A that are affected by average day-night noise levels in the 60-65 DNL and/or aircraft traffic patterns below 1,000 feet are required to provide insulation to achieve a sound noise level reduction of 25 decibels.
- (b) All development within Airport Influence Area B is affected by average day-night noise levels in the 65-70 DNL range and/or aircraft traffic patterns below 1,000 feet. Residential development or other noise sensitive development such as Schools, Universities, Religious Institutions, or Adult or Child Day Care Facilities are prohibited within Area B. All compatible uses are required to provide insulation to achieve a noise level reduction of 35 decibels within the noise sensitive areas of a facility.<sup>218</sup>
- (c) All development within Airport Influence Area B-1 is affected by average sound levels in the 60-65 DNL range and/or aircraft traffic patterns below 1,000 feet. New residential development is required to provide insulation to achieve a noise level reduction of 30 decibels. For new residential development, the maximum density is five residential units per acre with additional density being considered on a case-by-case basis pursuant to Section 11-05-05.3.B *Conditional Use Permit - Initial Approval or Major Expansion*.<sup>219</sup> Schools, Universities, Religious Institutions, and Adult or Child Day Care Facilities are prohibited. Commercial uses are compatible but are required to provide insulation to achieve a noise level reduction of 25 decibels within noise sensitive areas of a facility.

<sup>217</sup> New overlay based on the Airport Influence Area Design Principles in Blueprint Boise, including general design principles and Airport area policies.

<sup>218</sup> Inclusion of nonresidential development added to Subsections (b) and (c).

<sup>219</sup> Revised in Consolidated Draft to clarify that this determination is made through the CUP process.

- (d) All development within Airport Influence Area C is affected by average sound levels greater than 70 DNL. Existing residential uses in this area are considered nonconforming. New residential uses in this area are prohibited. Non-noise sensitive manufacturing, industrial and commercial uses are allowed but are required to provide insulation in noise sensitive areas of a facility.
- (e) All approved developments are required to grant the airport an avigation easement in a form acceptable to the City Attorney. Sample avigation easements are available on the airport website.

## B. BR-O: Boise River System Overlay

### (1) Purpose

The purpose of the BR-O district is to:

- (a) Ensure protection from flooding;
- (b) Allow for conveyance of the 100 year flood flow to lessen damage to public and private properties;
- (c) Preserve, protect, and enhance the abundance and diversity of fish, wildlife, and riparian vegetation native to the Lower Boise River and its floodplain, and that of its tributaries;
- (d) Control runoff and pollution so as to protect water quality of the river and its tributaries;<sup>220</sup>
- (e) Protect the Boise River as a public asset to the city and a major amenity for its citizens;
- (f) Maintain the Boise River Greenbelt;
- (g) Ensure that development is designed to enhancement and protect rivers riparian, fish, wildlife, and recreational values; and
- (h) Provide and maintain continuous public access to and along the river including appropriate facilities for parking of bikes and motor vehicles.

### (2) Applicability<sup>221</sup>

The following standards and regulations of uses within the district apply:

| TABLE 11-02.35: REGULATIONS AND USES |                        |  |  |   |  |
|--------------------------------------|------------------------|--|--|---|--|
| LAND CLASSIFICATION                  | FLOODPLAIN REGULATIONS | USE STANDARDS OF BOISE RIVER REGULATIONS [11-02-07.3.B(7)] | MITIGATION SECTION OF BOISE RIVER REGULATIONS [11-02-07.3.B(10)] | ENHANCEMENT SECTION OF BOISE RIVER REGULATIONS (WHERE APPROPRIATE) [11-02-07.3.B(11)] | BOISE RIVER DEVELOPMENT SYSTEM PERMIT REQUIRED [11-02-07.3.B(9)] |
| Class A                              | Yes                    | Yes  | Yes  | Yes   | Yes  |
| Class B                              | Yes                    | Yes  | Yes  | Yes   | Yes  |
| Class C                              | Yes                    | Yes  | No   | Yes   | Yes  |

<sup>220</sup> Reference to tributaries added.

<sup>221</sup> Deleted current Section 11-05-06.1.B(1) and moved to the content to be posted on the City's website.

**(3) Map and Boundaries**

**(a) Boundary Map**

[Reserved]

**(b) Districts**

The Boise River System Overlay district shall include the following areas:

**i. Floodway and Floodway Fringe Overlay Districts**

Lands within the 100 year floodplain boundaries adjacent to the Boise River, including lands designated within the Floodway (F) and Floodway Fringe (FF). These boundaries adjacent to the Boise River are determined by the FEMA Flood Boundary and Floodway Map. A copy of this map is available at the Planning and Development Services Department and on the City's website. The Planning Director, with recommendation from the City Engineer, shall provide boundary interpretations where necessary. These areas are subject to the standards in Section 11-02-07.3.C *FP-O Flood Protection Overlay* and the standards in Subsections (4) – (10), below.

**ii. Alluvial Overlay District**

Tributary floodplains and associated alluvial fans (AO zones) standards are addressed in Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.

**(4) Boundary Descriptions**

**(a) Floodway (F) District Boundary**

The Floodway District shall have the boundaries as follows: The Channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot, as shown in the Flood Insurance Study for Boise City, Idaho.

**(b) Flood Fringe (FF) District Boundary**

The Floodway Fringe District shall have boundaries as follows: The area between the floodway boundary and the boundary of the 100 Year Flood.

**(c) Area of Shallow Flooding (AFS) District Boundary Description**

The Area of Shallow Flooding District shall have boundaries as area shown on the Flood Insurance Rate Map as an AO zone with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident.

**(5) A, B, And C Lands and Waters Classifications**

The BR-O district includes lands and waters that provide natural resource functions and values including the preservation of fish and wildlife amenities shall be classified as "Class A, B, or C lands and waters."

**(a) Class A, B, And C Lands and Waters Established**

- i. A set of master maps delineating class A, B, and C lands and waters is located in the Planning and Development Services Department or on the City's website. The precise boundaries shall be determined on a case-by-case basis based on available maps, studies, outside agency input and on-site inspections.

- ii. The Boise River Fish and Wildlife Habitat Study, (Sather-Blair, et al, 1983), shall be used as a reference that provides objectives for preservation and management actions for Class A and Class B areas.

**(b) Class A Lands and Waters - Extremely Important for Preservation**

Class A lands and waters provide extremely important habitats for fish and wildlife and for flood control and protection. The objective is to preserve and protect these lands for their benefits to fish and wildlife in general and to protect Bald Eagle, Great Blue Heron, trout, and waterfowl habitats in particular. These areas include, but are not limited to:

- i. Floodways;
- ii. Areas with a high degree of plant community diversity;
- iii. Black cottonwood riparian plant community;
- iv. Riparian forests;
- v. Scrub-shrub wetlands;
- vi. Emergent wetlands within the floodplain (exclusive of working irrigation canals);
- vii. A 300 foot radius around Great Blue Heron rookeries;
- viii. Eagle winter habitat which includes lands within 200 feet of the 6500 cubic feet per second (c.f.s.) line, as determined by the Public Works Department based on their monitoring of annual flows, east of Walnut Street on the north side of the river and east of Phase 4 of the River Run Subdivision on the south, and forested wetlands east of these points;
- ix. Lands within the riparian setback lands and waters;
- x. The banks of side channels and tributary stream areas within the jurisdiction of this overlay district;
- xi. Islands within the river;
- xii. Trout spawning waters;
- xiii. Riparian areas of tributary streams within the jurisdiction of this overlay district including channels that convey floodwaters and areas that meet the definition of wetlands; and
- xiv. Lands currently identified as the Barber Pool Conservation Area.

**(c) Class B Lands and Waters - Moderately Important for Preservation**

Class B lands and waters provide good potential for improvements to natural resource functions and values. Development should improve natural resource functions and values and avoid negative. Class B lands and waters include, but are not limited to:

- i. Agricultural lands;
- ii. Gravel pit ponds and small lakes; and
- iii. Intermittent tributary streams.

**(d) Class C Lands - Least Important for Preservation**

Class C lands provide limited fish and wildlife habitat. Development should provide landscaping and habitat improvements. These areas include, but are not limited to:

- i. Public and private parks where current uses preclude enhancement of fish and wildlife habitat;
- ii. Diversion dams;
- iii. Residential and commercial developments;
- iv. Lands surrounding gravel ponds;
- v. Subdivided properties;
- vi. Former industrial areas; and
- vii. Vacant lands in urban centers.

**(6) Setbacks**

Setbacks are intended to protect and preserve the river, Greenbelt, Great Blue Heron rookeries, eagle perching, feeding, and loafing areas, and riparian areas.

**(a) Boise River Setback**

The setback for structures and parking areas is 70 feet from the 6500 c.f.s. line of the Boise River or 5 feet from the boundary of all dedications or easements granted to the City for Greenbelt purposes in excess of 65 feet.

**(b) Greenbelt Setback**

The Greenbelt setback for structures and parking areas is 70 feet measured landward from the 6500 c.f.s. setback line.

**(c) Great Blue Heron Rookeries Setback**

The setback for structures and parking areas is 300 feet from the 6500 c.f.s. around Great Blue Heron rookeries. Rookeries shall be designated by the City and the Idaho Fish and Game Department.

**(d) Eagle Perching, Feeding, and Loafing Setback**

The setback for structures and parking areas is 200 feet from the 6500 c.f.s. east of Walnut Street along the north side of the Boise River, and east of Phase 4 of the River Run subdivision along the south side of the Boise River.

**(e) Riparian Setback**

**i. Tier 1 Waterway**

A side channel with a width of less than 15 feet, measured from the top of bank, or with a flow of less than five c.f.s. shall have a riparian setback of 20 feet.<sup>222</sup>

**ii. Tier 2 Waterway**

A side channel at least 15 feet wide, measured from top of bank, or with a flow of between five to 150 c.f.s. shall have a riparian setback of 25 feet.

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<sup>222</sup> New top of bank measurement clarification for width of side channel.

**iii. Structure Setback**

A minimum of 15 feet shall be maintained between the riparian setback and structures to allow for lawns and patios.

**(7) Allowed Uses and Improvements**

The following uses and improvements are allowed in Class A lands and waters areas subject to the standards for uses, mitigation and enhancement provisions set forth in this Section 11-02-07.3.B.

**(a)** All uses not explicitly listed below are prohibited in Class A lands and waters areas.

- i.** Signs (non-commercial);
- ii.** Restrooms and snack bars (except for existing uses);
- iii.** River bridges and paved access to river bridges;
- iv.** Fish and wildlife habitat improvements;
- v.** Irrigation weirs, diversion dams, and inlets;
- vi.** Water inlets to supply domestic water;
- vii.** Greenbelt structures under existing bridges;
- viii.** Greenbelt paths or non-paved pedestrian paths that may provide limited access to the river and may run into or through lands designated as Class A habitat areas.
- ix.** Paved bicycle paths, limited to:
  - A.** Existing paths;
  - B.** The Lander Street sewage treatment plant path;
  - C.** The Warm Springs Park area pedestrian path and bridge; and
  - D.** Where an existing railroad right-of-way is already located or that may require, donated, or used as a bicycle path;
- x.** Natural parks;
- xi.** Bank and channel stabilization projects;
- xii.** Hydro-electric and flood protection dams;
- xiii.** Selected public piers and beaches;
- xiv.** Public utility lines such as water and sewer lines;
- xv.** Storm drain outlets and detention basins;
- xvi.** Water pump facilities;
- xvii.** Gravel extraction including reuse of gravel extraction lands; and
- xviii.** One dwelling unit per 20 acres or lawful nonconforming lot.

**(b)** Uses allowed in Class B and Class C areas are limited to those listed in Table 11-03.1: *Table of Allowed Uses*.

**(8) Standards**

**(a) Standards Applicable to All Development Within the BR-O District**

**i. Emergent Wetlands**

In recognition of their importance and their scarcity, emergent wetlands shall be preserved as follows:

- A.** Emergent wetlands surrounded by Class B or Class C lands may be replaced with a wetland of equal size, provided that the created emergent wetland has the same or greater degree of natural resource functions and values as did the impacted emergent wetland.
- B.** The emergent wetland may be relocated anywhere on the project site, except within Class C lands.
- C.** If the emergent wetland is relocated to a site within existing Class A lands, then the land area of Class A lands and waters shall be enlarged by an amount no less than the size of the impacted emergent wetland.

**ii. Enhancement of Water Resources**

Proposals to use or create a water amenity shall be designed to accommodate wetland and riparian functions and waterfowl, wildlife, trout, or warm water fish habitats.

**iii. Parks and Open Spaces**

- A.** Park areas where sporting events take place shall be located outside of Class A lands.<sup>223</sup>
- B.** Open spaces such as parks, golf courses, greenbelt areas, or parking lots, within the floodplain shall be designed and operated to flood and provide storage capacity during flood flows in excess of 6500 c.f.s.

**iv. Emergency Access**

New developments shall include provisions for emergency access as determined by the Boise Fire Department.

**v. Greenbelt Access**

Developments shall provide for public access to the Boise River Greenbelt and public parking for bicycles and motor vehicles.

**vi. Landscaping**

Landscaping shall use native or naturalized plant materials that provide wildlife food and shelter. Manicured landscaping and lawns are prohibited in Class A lands and in riparian areas and setbacks.

**vii. Bank and Channel**

Bank or channel stabilization measures (e.g., rip-rap, drop structures, large cobble) shall include over-planting with shrubs and trees and the deliberate enhancement of fish habitat.

<sup>223</sup> Replaced reference to "intense activity portions" to "areas where sporting events take place."



**viii. Screening Requirements**

- A.** Structures shall be screened from view from the Greenbelt and the river with landscaping that will grow to a height of at least 20 feet within 10 years.
- B.** Parking areas located between the structure and the Boise River shall be screened from view by landscaping or decorative fencing at least five feet in height.
- C.** Appropriate landscaping should be used to screen habitat areas from new development.

**ix. Construction Fencing**

Fencing shall be installed where construction activities abut a riparian area.

**(b) Additional Standards Applicable to Class A Lands and Waters**

- i.** Class A areas within a development or subdivision shall be preserved in single common ownership through a conservation easement or other method approved by the City.
- ii.** The removal of living or dead vegetation from the floodway shall not be permitted unless:
  - A.** The vegetation poses a threat to persons or property;
  - B.** The vegetation contributes to a dangerous restriction of the flow of floodwater; or
  - C.** The removal of vegetation is part of an approved mitigation and enhancement plan.
- iii.** Removal of vegetation shall be confined to the minimum necessary, while still maintaining the natural riparian areas. Removal of vegetation is subject to approval by the Planning Director after review and recommendation by the Urban Forestry Division of the Boise Parks and Recreation Department.
- iv.** Emergency situations under (2)(a) and (b) above may require actions to be taken before the Planning Director can be contacted. If that is the case, then the action taken shall be reported to the Planning Director and mitigation efforts shall be taken if the Planning Director requires them.

**(c) Additional Standard Applicable to Class B Lands and Waters**

Development shall improve natural resource functions and values and shall mitigate negative impacts.

**(d) Additional Standard Applicable to Class C Lands**

Development plans shall provide for habitat improvements and landscaping to create screens and buffer between wildlife habitat areas and new.

**(9) Conditions for Permits**

Conditions may be attached that:

- (a)** Require compliance with applicable specifications, standards or requirements of the Idaho Department of Water Resources, Army Corps of Engineers, the Idaho Fish and Game Department, U.S. Fish and Wildlife Service, Environmental Protection Agency, the city, or other agencies.

- (b) Require preservation of existing vegetation, and mitigation or enhancement of natural resource functions and values as set forth in Sections 11-02-07.3.B(10) and 11-02-07.3.B(11).
- (c) Require landscaping consistent with the objectives of the Greenbelt or the extension of the natural setting of the river.
- (d) Limit reclamation of eroded stream banks in the floodway and require overflow channels to remain open.
- (e) Limit construction to certain periods of time.
- (f) Require certification by a licensed engineer that conditions have been fulfilled.

#### (10) Mitigation

##### (a) Purpose

- i. The purpose of this Subsection (10) is to offset negative impacts of a proposed development on the natural resource functions and values in Class A and B lands and waters.
- ii. Mitigation goals for Class A and B lands shall be no net loss of existing natural resource functions and values associated with flood protection, fish and wildlife habitat, recreation and other goals of the Comprehensive Plan and Boise River Plan.

##### (b) Natural Resource Functions and Values

Natural resource functions and values are:

- i. Water quality;
- ii. Habitat for fish and wildlife;
- iii. Nutrient retention and removal;
- iv. Channel stability;
- v. Food chain support;
- vi. Flood storage and de-synchronization;
- vii. Groundwater recharge and discharge;
- viii. Recreation;
- ix. Aesthetics; and
- x. Cultural resources.

##### (c) Mitigation Measures and Sequencing for Class A, B, and C Lands and Waters

The mitigation sequence shall be examined in the order listed below. Several mitigation measures may be used in combination to provide the greatest protection to the resource. Different mitigation sequencing may be used provided extensive evidence is submitted and adequately demonstrates the impacts and public benefits available. The burden shall be on the applicant to demonstrate compliance with the minimum standards described in this Section.

##### i. Mitigation Measures for Class A and B Lands and Waters

Mitigation measures from the most to the least preferable are:

- A. Avoid adverse impacts by selecting alternative alignments or locations.

- B. Minimize impacts by limiting encroachments, using less intrusive construction techniques, or other methods.
- C. Restore the impact area to as near its original condition as possible.
- D. In-kind on-site compensation.
- E. In-kind off-site compensation.

ii. **Mitigation Measures for Class C Lands and Waters**

Mitigation is not required. Development in Class C lands shall not adversely affect adjacent and nearby habitat in Class A or Class B lands.

(d) **Procedures for Development of Mitigation Plan**

i. **Generation of Field Data**

To accurately describe existing conditions, constraints, and their magnitude, existing natural resource functions and values shall be assessed by the applicant. This assessment shall be provided with the project application for review by the city along with a comprehensive technical plan to mitigate for impacts to natural resource functions and values, or to enhance natural resource functions and values.

ii. **Early Coordination with Resource and Regulatory Agencies**

Consultation with government agencies that have resource responsibilities shall be initiated by the applicant as soon as practicable to determine the natural resource functions and values existing within the area requiring a River System Permit. Consultation shall also include a discussion of the presence of threatened and endangered species, and species of special concern; fish and wildlife habitat requirements and their sensitivity to disturbance; and measures needed to mitigate for project related impacts or to enhance existing habitat. Consultation shall be documented.

iii. **Comprehensive Mitigation Design**

Proposed modifications to Class A and B lands and waters shall include:

A. **Preliminary Mitigation Plan**

A preliminary site plan shall identify the location and quality of existing natural resources, impacts to those resources attributable to the proposed project, and proposed mitigation measures.

B. **Final Mitigation Plan**

- (i) Upon approval of the River System Permit a final site plan shall be developed by the applicant that includes a detailed description, plan view, profile, and typical Sections of the mitigation project. The final site plan shall fully describe proposed changes to the resource and the materials and methods used to accomplish mitigation.
- (ii) The final site plan may be offered to the state and federal agencies for review. Comments of these agencies shall be fully considered by the City in its determination of whether the final site plan is in accordance with the River System Permit.

**iv. Performance Monitoring**

The applicant shall monitor the performance of constructed mitigation improvements for a minimum period of 18 months unless otherwise fixed by the Planning and Zoning Commission. Acceptable performance shall be judged by comparing measured values to previously agreed upon standards.

**(11) Enhancement**

**(a) Purpose**

The purpose of this Subsection (11) is to encourage innovative development design to increase the quantity and improve the quality of existing natural resource functions and values.

**(b) Enhancement Plans**

Enhancement plans may be submitted but are not required as part of an application for a River System Permit.

**(c) Enhancement Design Standards**

**i. Enhancement of Class A, B, And C Waters**

**A. Enhancement of Waters Held by the Idaho Department of Fish and Game**

Enhancement or creation of water amenities that use waters held by Idaho Department of Fish and Game shall be designed for the propagation and perpetuation of fish and wildlife resources.

**B. Enhancement of Non-Idaho Department of Fish and Game Waters**

Enhancement or creation of water amenities not held by Idaho Department of Fish and Game may be designed to enhance fish and wildlife resources or to provide a visual amenity.

**ii. Enhancement of Class A, B, and C Passive Open Space**

**A. Class A Passive Lands**

Class A passive open space shall be designed with the primary intent of providing enhancement to fish, wildlife and riparian resources with specific design or attention given to eagles, Great Blue Heron, trout, and waterfowl. Vegetation shall be predominantly native or naturalized plant species.

**B. Class B and C Passive Open Space**

Class B and C passive open space should be designed to encourage the creation of fish, wildlife, and riparian resources and to create transition between natural areas and areas of more intense development. Vegetation may be a combination of native or naturalized vegetation and ornamental or exotic species.

**C. Native and Naturalized Vegetation**

Native and naturalized vegetation should be located near established or created habitat areas and may transition to more ornamental species towards or within the development.

**D. Adjustment of Standards<sup>224</sup>**

- (i) In order to provide an incentive for higher quality and more extensive enhancement plans, adjustments of zoning and subdivision standards may be requested.
- (ii) Adjustments may be granted by the Planning and Zoning Commission or City Council on enhancement plans that have been designed in accordance with this Section and in compliance with the BR-O district.
- (iii) An adjustment of the standards may be approved when evidence presented meets the following conclusions of law: (1) that the proposed enhancement plan is in compliance with the applicable standards of Section 11-02-07.3.B(10), (2) that the proposed enhancement plan complies with all local, state, and federal laws and regulations, and (3) that the adjustments requested ensure a benefit to the public.

**E. Adjustment Examples**

- (i) The adjustment of sidewalk standards for the construction of pedestrian, bicycle or nature trails that functionally replace the sidewalk. Provision of pedestrian pathways is encouraged on both sides of streets.
- (ii) Reduction in street width standards to minimize impervious surfaces and to provide more land for vegetation and habitat improvements, provided, however, that private streets are to be discouraged.
- (iii) Density transfers and clustering of uses to provide larger areas for habitat improvements.
- (iv) Permit stream and irrigation system adjustments from the design requirements of Section 11-04-04, *Subdivision Standards*.
- (v) Permit fencing adjustments from irrigation and streams as required in Section 11-04-04, *Subdivision Standards*.
- (vi) Permit adjustment of drainage standards, as long as drainage and water quality goals are met.
- (vii) Permit flexibility in the enhancement of existing marginal Class A lands by permitting enhancements that improve the river riparian values.
- (viii) Adjustments that address public safety considerations.
- (ix) Flexibility in lot size and setback standards to provide large areas increasing habitat. Any adjustment or variance from setback requirements under this overlay district shall be shown to be required by legal necessity (a taking would otherwise occur) or to promote and enhance public safety, or that strict compliance with the setback in a given area would result in more damage to the habitat and environment than would granting the adjustment or variance under the provisions of this and other overlay district(s) or other Code provisions.

<sup>224</sup> Replaced all references to "waivers" with "adjustments", because complete waiver of requirement to comply is rare; more frequently the standard is adjusted to require what is possible under the circumstances.

**(d) Procedures for Development of Enhancement Projects**

- i. The same field data required to satisfy Section 11-02-07.3.B(10)(d), *Procedures for Development of Mitigation Plan*, shall be gathered and used to aid in the design of the enhancement plan.
- ii. A combined mitigation and enhancement preliminary plan may be submitted if the plans clearly designate that those features fulfill the mitigation requirements and that features fulfill the enhancement plan. Enhancement features may be considered part of a mitigation plan only if such features meet the standards of Sections 11-02-07.3.B(10)(a) and (c).

**(e) Performance Monitoring**

The applicant shall monitor the performance of constructed enhancements for a minimum period of 18 months unless otherwise fixed by the Planning and Zoning Commission. Acceptable performance shall be judged by comparing measured values to standards that were previously agreed- upon.

**C. FP-O Flood Protection Overlay<sup>225</sup>****(1) General Provisions****(a) Purpose**

- i. The flood hazard areas of Boise City are subject to periodic inundation, which may result in loss of life and property, health and safety hazards, disruption of commerce and government services, extraordinary public expenditures for flood protection and relief, and impairment of the tax base, all of which adversely affect the public health, safety, and general welfare.
- ii. Flood losses are caused by natural forces and construction practices which increase flood heights and velocities, and by structures that are inadequately anchored and which may damage property in other areas. Uses that are inadequately flood-proofed, elevated, or otherwise unprotected from flood damage also contribute to flood losses.
- iii. The purpose of this Section is to promote public health, safety, and general welfare, and to minimize public and private losses due to flood conditions in specific areas by provisions designed to:
  - A. Protect human life and health;
  - B. Minimize expenditures of public money and costly flood control projects;
  - C. Minimize the need for rescue and relief efforts associated with flooding which are generally undertaken at the expense of the general public;
  - D. Minimize prolonged business interruptions;
  - E. Minimize damage to public facilities and utilities such as water and gas mains; electric, telephone and sewer lines; and streets and bridges located in Areas of Special Flood Hazard;

<sup>225</sup> New Section to clarify the difference between the floodplain and Boise River System Overlay. Content is from current Section 11-08-01 through 06. Content on administration, appeals and variances from current Section 11-08-08 relocated to Chapter 11-05, Administration and Procedures. Floodplain definitions from current Section 11-08-09 now appear in the Definitions chapter below.

- F. Help maintain a stable tax base by providing for the sound use and development of Areas of Special Flood Hazard so as to minimize future flood blight areas;
- G. Ensure that potential buyers are notified when property is in an Area of Special Flood Hazards; and
- H. Ensure that those who occupy the Areas of Special Flood Hazard assume responsibility for their actions.

**(b) Methods of Reducing Flood Losses**

This Section 11-02-07.3.C(1)(b) describes guidelines and provisions for:

- i. Restricting or prohibiting redevelopment that is dangerous to health, safety, and property due to water or erosion hazards, or which results in damaging increases in erosion or in flood heights or velocities;
- ii. Requiring that development vulnerable to floods, including facilities, be protected against flood damage at the time of initial construction;
- iii. Controlling the alteration of natural floodplains, stream channels, and natural protective barriers, which help accommodate or channel flood waters;
- iv. Controlling filling, grading, dredging, and other development which may increase flood damage; and
- v. Preventing or regulating the construction of flood barriers which will unnaturally divert flood water or may increase flood hazards in other areas.

**(c) Applicability**

The provisions of this Section shall apply to all Areas of Special Flood Hazard, within the jurisdiction of Boise City, and as such lands are identified, within the Floodway, Floodway Fringe, or the Area of Shallow Flooding. The Areas of Special Flood Hazard are identified by the Federal Emergency Management Agency (FEMA) in a scientific and engineering report entitled "Flood Insurance Study for Ada County, Idaho, and Incorporated Areas" dated July 19, 2020, with accompanying Flood Insurance Rate Maps, and flood profiles, along with all subsequent amendments which are hereby adopted by reference and declared to be a part of this Section. The Flood Insurance Study and Flood Insurance Rate Maps are on file with the Planning Director and the City Engineer.

**(d) Creation of Zones**

The Floodway Zone, the Floodway Fringe (FF) Zone and Area of Shallow Flooding (ASF) Zone are hereby created and shall have the boundaries as defined in Chapter 11-06, *Definitions* and shall have the requirements as set forth in this Section.

**(e) Exclusions**

Upon issuance of a Letter of Map Amendment or Letter of Map Revision, from FEMA, such land shall be deemed to be automatically excluded from the Floodway, Floodway Fringe and Area of Shallow Flooding.



**(f) Compliance**

All development within the Area of Special Flood Hazard (ASFH) shall be undertaken in full compliance with this Section 11-02-07.3.C. Enforcement of violations shall be in accordance with Section 11-05-07, *Violations, Enforcement, and Penalties*.

**(g) Abrogation and Greater Restrictions**

The provisions of this Section shall be in addition to, and shall not be deemed to repeal, abrogate, or impair any other ordinance, regulation, easement, covenant, or deed restriction. In the event that the provisions of this and any other ordinance, regulation, easement, covenant, or deed restriction conflict or overlap, whichever has the more restrictive requirements shall control.

**(h) Severability**

Each Section, clause, and provision of this Code is declared severable as per Section 11-01-09, *Severability*.

**(i) Interpretation**

All of the provisions of this Section shall be liberally construed in favor of the governing body and shall not be deemed to limit or repeal any other powers granted under state statutes.

**(j) Warning and Disclaimer**

The degree of flood protection required by this Section is considered reasonable for regulatory purposes and is based on scientific and engineering considerations. Larger floods can and will occur on rare occasions. Flood heights may be increased due to artificial or natural causes. This Section does not imply that lands outside the identified Areas of Special Flood Hazard will be free from flooding or flood damages or that uses permitted within the identified Areas of Special Flood Hazard will be free from flooding or flood damages. This Section 11-02-07.3.C shall not create liability on the part of Boise City, or any officer or employee thereof, for any flood damages that result from reliance on this Section or any administrative decision lawfully made using this Section.

**(2) Floodway Zone**

**(a) Allowed Uses**

All uses permitted by the base zoning district within this Code, and as amended are permitted in Floodway Zones to the extent that the uses are consistent with the standards of this Section.

**(b) Standards**

- i.** No new development shall be permitted including fill, new construction, substantial improvements, or other development, unless:
  - A.** It is public infrastructure, including but not limited to bridges, roadways, sewer, and water lines, and
  - B.** It has been demonstrated through hydrologic and hydraulic analyses performed in accordance with standard engineering practice that the proposed encroachment would not result in any increase in flood levels within the community during the occurrence of the base flood discharge.

- ii. All new development, new construction and substantial improvements shall comply with the applicable standards for uses in the Floodway Fringe.
- iii. Existing structures in the Floodway Zone that are displaced by floodwater shall not be reconstructed.
- iv. No alteration or relocation of a water course shall be permitted that would diminish the flood carrying capacity of the water course, or which would result in the flooding of lands which are not subject to flooding prior to such alteration or relocation of the water course, or which will result in adverse effects on other properties including but not limited to, bank erosion resulting from higher velocities, increased heights of floodwaters, extended flood duration, or alterations that may promote channel blockage.
- v. Uses on parcels that include any portion of a floodway shall provide for channel stabilization, bank stabilization, or a setback from the edge of the floodway sufficient to protect the use from flood related erosion. Such measures shall be reviewed by a licensed professional engineer for effectiveness for the flood flow and velocity conditions anticipated at the site.
- vi. Check dams shall be designed and reviewed by a licensed professional engineer, and reviewed and approved by the City Engineer to ensure the safety of persons and property which could be affected by the construction of the check dam.
- vii. In areas where a regulatory floodway has not been designated, no new construction, substantial improvements, other development (including fill) shall be permitted within zones A1-30 and AE on the community's FIRM, unless it is demonstrated that the cumulative effect of the proposed development, when combined with all other existing and anticipated development, will not increase the water surface elevation of the base flood more than one foot at any point within the community.

#### (c) Prohibited Uses

- i. New construction or substantial improvements of residential and nonresidential structures, including both principal and accessory use structures, except as provided in 11-02-07.3.C(2)(b), above.
- ii. The manufacturing and storage of materials that are buoyant, flammable, toxic or explosive, or that may present a hazard to public health or safety in time of flooding.
- iii. Material stockpiles and permanently installed structures shall not be located within the floodway.<sup>226</sup>

#### (d) Relocating the Floodway (Line)

- i. All proposals to redefine the floodway boundary lines require a resolution from the City Council to adopt the amendments to the Flood Insurance Rate Map, and the Flood Insurance Study. The procedure shall include a review by the U.S. Army Corps of Engineers, the Federal Emergency Management Agency (LOMC Process),

<sup>226</sup> Deleted "Standards for Sand and Gravel Extraction" as unnecessary in the Consolidated Draft.

the Department of Public Works, and the Planning and Development Services Department, prior to submittal to the City Council.

- ii. The Floodway Boundary Line may be relocated due to refinements of the floodway calculations based upon new information concerning the existing conditions.
- iii. The floodway boundary line shall not be relocated through physical alterations to the lands in the floodplain.

### (3) Floodway Fringe (FF) Zone and Area of Shallow Flooding (ASF) Zone

#### (a) Allowed Uses

All uses permitted in the base zoning district within this Code and as amended, are permitted in the Floodway Fringe Zone and Area of Shallow Flooding Zone to the extent that such uses are consistent with the standards within this Section.

#### (b) Standards

##### i. Uses

- A. Except for levees, all new development shall use methods and practices that minimize flood damage and prevent the increase in flood damage potential to other properties or other adverse impacts including but not limited to, bank erosion resulting from higher velocities, increased heights of floodwaters, extended flood duration, or alterations that may promote channel blockage.
- B. All new development shall use materials and utility equipment resistant to flood damage.
- C. All new construction and substantial improvements to structures shall be anchored to prevent flotation, collapse or lateral movement of the structure resulting from hydrostatic and hydrodynamic loads including the effects of buoyancy.
- D. All Manufactured Homes shall likewise be anchored to prevent flotation, collapse, or lateral movement, and shall be installed using methods and practices that minimize flood damage. Anchoring methods may include but are not limited to use of over-the-top or frame ties to ground anchors (Reference FEMA's Protecting Manufactured Homes from Floods & Other Hazards FEMA P-85 11/2009 for additional techniques).
- E. Drainage practices shall be used which minimize exposure to flood hazards.
- F. Manufacture and/or storage of material that is buoyant, flammable, toxic or explosive is prohibited.
- G. River crossings shall be designed to withstand the flows and velocities of the base flood discharge and shall not impede the flows.
- H. All development and structures shall meet or exceed the requirements of Section 11-02-07.3.B, *BR-O: Boise River System Overlay*, if applicable.
- I. Water velocities within the Floodway Fringe are not significantly increased so as to cause adverse effects on the site or to surrounding properties.

- J.** Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

- ii. Utilities**

- A.** All new and replacement water supply systems shall be designed to prevent infiltration of flood waters into the systems.
- B.** New and replacement wastewater disposal systems shall be designed to minimize or eliminate infiltration of flood waters into the systems and discharge from the systems into flood waters.
- C.** On-site waste disposal systems are prohibited in the Floodway Fringe Zone and Area of Shallow Flooding Zone.
- D.** Electrical, heating, ventilation, plumbing, and air-conditioning equipment and other service facilities shall be designed and/or otherwise elevated or located so as to prevent water from entering or accumulating within the components during conditions of flooding.

- iii. Development Including Subdivisions and Manufactured Home Parks**

- A.** All proposals shall be consistent with the need to minimize flood damage.
- B.** All proposals shall have public utilities and facilities such as sewer, gas, electrical, and water systems located and constructed to minimize flood damage.
- C.** All proposals shall have adequate drainage to reduce exposure to flood damage.
- D.** Base flood elevation data shall be provided and shown on the Preliminary Plat for all proposals. Such elevation data shall be certified by a licensed professional engineer or registered land surveyor. Where base flood elevation data has not been provided or is not available from another authorized source, it shall be generated for subdivision proposals and other proposed developments which contain greater than 50 lots or five acres (whichever is the lesser).

- iv. Residential Structures**

- A.** New construction and substantial improvement of any residential structure (including but not limited to Manufactured Homes) located in the Floodway Fringe shall have the lowest floor including basements and crawl spaces, elevated two feet above the base flood elevation.
- B.** New construction and substantial improvement of any residential structure located in the Area of Shallow Flooding (AO Flood Zone) shall have the lowest floor, including basements and crawl spaces, elevated one foot above the flood depth specified on the FIRM measured at highest adjacent grade, or at least two feet above highest adjacent grade when a flood depth is not identified. The height of the adjacent grade and the lowest floor including basement and/or the first floor shall be certified by a licensed professional engineer or registered land surveyor.



- (i) When located in the Floodway Fringe, such structures shall have the lowest floor, including basements and crawl spaces, elevated to two feet above the base flood elevation. When located in the Area of Shallow Flooding, such structures shall have the lowest floor, including basement, elevated to the level of the base flood depth as indicated on the FIRM or at least two feet above highest adjacent grade if no depth number is specified.
- (ii) Elevations of adjacent grade and the first floor shall be certified by a licensed professional engineer or registered land surveyor to the Building Official.
- (iii) Nonresidential structures that are elevated, but not flood proofed, must meet the same standards for space below the first floor as described in Subsection v. above.

#### **B. Flood-Proofing**

In lieu of elevating nonresidential structures as required in this Section, new construction and substantial improvement of any nonresidential structures shall meet the following:

- (i) When located in the Floodway Fringe, such structures together with attendant utility and sanitary facilities shall be flood-proofed to one foot above the base flood level so the structure is watertight with walls substantially impermeable to the passage of water.
- (ii) When located in the Area of Shallow Flooding, such structures, together with attendant utility and sanitary facilities, shall be flood-proofed to the base flood level so the structure is watertight with walls substantially impermeable to the passage of water.
- (iii) Structural components shall be capable of resisting hydrostatic and hydrodynamic loads and the effects of buoyancy.
- (iv) A licensed professional engineer shall certify that the design and methods of construction are in accordance with accepted standards of practice for meeting provisions of this Section based on their review of the structural design, specifications, and plans. Such certifications shall be provided to the Planning Director.

#### **vii. Recreational Vehicles**

Recreational vehicles shall either:

- A.** Be on the site for fewer than 180 consecutive days and be fully licensed and ready for highway use (a recreational vehicle is ready for highway use if it is on its wheels or jacking system, is attached to the site only by quick disconnect type utilities, and has no permanently attached additions); or
- B.** Meet the permit and elevation requirements for residential structures (Subsection v. above) and the anchoring requirements for Manufactured Homes (Subsection vi. above).

**(4) Unnumbered "A Zones"**

**(a) Allowed Uses**

All uses permitted in the base zoning district within this Code and as amended, are permitted in the Unnumbered "A Zone" to the extent that such uses are consistent with the standards within this Section.

**(b) Standards**

**i. Uses**

- A.** The use shall meet the standards listed in the standards for uses in the Floodway Fringe Zone and Area of Shallow Flooding Zone in Section 11-02-07.3.C(3)(b)i.
- B.** Where elevation data is not available either through the Flood Insurance Study or from another authoritative source, applications for Building Permits shall be reviewed to assure that proposed construction will be reasonably safe from flooding. The test of reasonableness is a local judgment and includes use of historical data, high water marks, or photographs of past flooding, where available. Failure to elevate at least two feet above grade in these zones may result in higher insurance rates.
- C.** Require adequate drainage paths around structures on slopes to guide floodwaters around and away from proposed structures.

**ii. Utilities**

The utilities shall meet the standards listed for utilities in the Floodway Fringe Zone and Area of Shallow Flooding Zone in Section 11-02-07.3.C(3)(b)ii.

**iii. Development, Including Subdivisions and Manufactured Home Communities**

The proposal shall meet the standards listed in the Floodway Fringe Zone and Area of Shallow Flooding Zone in Section 11-02-07.3.C(3). The applicant shall submit an application for a Conditional Letter of Map Revision (CLOMR) prior to Preliminary Plat approval and have obtained a Letter of Map Revision (LOMR) prior to any Building Permits for structures being issued.

**iv. Standards for Residential Structures**

The residential structures shall meet the standards for residential structures listed in Floodway Fringe Zone and Area of Shallow Flooding Zone in Section 11-02-07.3.C(3)(b)iv.

**(5) Critical Facilities**

Construction of new critical facilities shall be, to the maximum extent practicable, located outside the limits of the Special Flood Hazard Area (SFHA). Construction of new critical facilities shall be permissible within the SFHA if no feasible alternative site is available. Critical facilities constructed within the SFHA shall have the lowest floor elevated three feet or to the height of the 500 year flood, whichever is higher. Access to and from the critical facility should also be protected to the height used above. Flood-proofing and sealing measures shall be taken to ensure that toxic substances will not be displaced by



or released into floodwaters. Access routes elevated to or above the level of the base flood elevation shall be provided to all critical facilities to the extent possible.

#### **(6) General Irrigation Floodplain Development Permit**

- (a) A General Irrigation Floodplain Development Permit (GIFD) applies to qualifying activities within the regulatory floodway or SFHA. These permits may be issued to an irrigation entity for a period not to exceed five years. Examples of activities eligible under this provision include:
- i. Dredging and grading of irrigation and drainage channels, when the fill from dredging or grading is not deposited on the banks of channels or anywhere within the regulatory floodway or SFHA for longer than 10 days.
  - ii. Seasonal grading within natural stream channels to check or direct water into irrigation facilities (i.e. earthen “push-up dams” and “wing dams”).
  - iii. Deposition of fill within the SFHA for less than 10 days. After 10 days, deposited fill shall be removed from the SFHA, or graded and compacted to existing grade within  $\pm 0.2$  feet. Deposition of fill includes deposition of material resulting from grading or excavating irrigation or drainage channels. Deposition of fill within the mapped floodway requires an individual permit.
  - iv. Construction of new underground utilities that do not permanently alter the existing grade elevations by  $\pm 0.5$  feet. Excess soil from new pipes larger than 2 feet in diameter shall be disposed of outside the regulatory floodway and SFHA.
  - v. In-kind replacement of irrigation and drainage works or components including but not limited to control gates or head gates, measuring devices and their housing structures/stilling wells, culverts, pumps, pipes, flumes, siphons, and similar works. GIFD permits cannot authorize the In-kind replacement of dams or bridge structures.
  - vi. New driveways, trails, sidewalks, roads, and streets constructed completely at-or-below existing grade.
  - vii. Armoring, stabilizing, securing, or in-kind replacement of existing infrastructure within the channel banks (such as bridge piers, sewer/utility supports and storm water/sewer drainage outfalls/headwalls) when the dimensions (bank slopes, channel location, channel elevation) of the channel are not altered. This should not involve replacement with larger or additional above ground infrastructure.

#### **D. HS-O: Hillside Development Overlay<sup>227</sup>**

##### **(1) Purpose and Intent**

The purpose of the HS-O district is to ensure the development of hillsides and foothills is consistent with the Comprehensive Plan and to ensure protection from hazards due to slope, erosion-prone soils, unstable soils, earth movement, and other geologic and hydrologic hazards.

<sup>227</sup> Content from 11-07-08.6 regarding the Hillside and Foothills Development Permit application process relocated to Chapter 11-05, Administration and Procedures.

**(2) Applicability**

These provisions shall apply to development on properties where the slope exceeds 15 percent or where adverse conditions due to slope stability, expansion soils, high water table and springs, erosion, or sedimentation are present as determined by the Planning Director or City Engineer.

**(3) Categories of Hillside Development Permits**

The Planning Director (with input from the City Engineer) shall determine whether an application may be processed as a Category 1, 2, or 3 permit.

**(a) Category 1**

Category 1 Permits are issued by the Planning Director for minor, routine construction on prepared building pads and single-lots that do not involve significant grading. For example:

- i. Single-Family Detached Dwellings or accessory structures placed on lots needing little modification, in a development for which a Category 3 permit has previously been issued.
- ii. Single-Family Detached Dwellings or accessory structures placed upon lots of record that comply with approved building envelopes and limits to grading and for which Category 2 Permit criteria are not exceeded.

**(b) Category 2**

Examples of the development requiring a Category 2 Permit are:

- i. Exterior additions to existing structures;
- ii. Grading with significant modification of approved topography including:
  - A. A retaining wall that is greater than four feet of exposed height or more than one retaining wall when the horizontal distance between retaining walls is less than 10 feet and the total of all exposed retaining walls exceeds four feet in height; or
  - B. An excavation or fill that exceeds the limits as defined International Building Code Chapter 18 and Appendix J as amended by Chapter 9-1 of the Boise City Code;
- iii. Access roads or driveways in excess of 100 feet in length or in excess of 15 Percent grade. Such driveways shall be reviewed for impacts on drainage and soil stability, emergency access, access to the public street and potential physical impacts on neighboring properties; or
- iv. Multiple retaining walls located within setbacks, per Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

**(c) Category 3**

Category 3 Permits are for PUDs, Preliminary Plats, or grading involving modification of approved topography beyond that allowed under Categories 1 and 2 including:

- i. Projects where the Planning Director, with input from the City Engineer, determines that slope stability or drainage problems exist.

- ii. Projects involving modification of pre-graded lots in excess of 30 percent of the volume of previous excavation or fill or 30 percent of the surface area by square footage.
- iii. Projects involving modification of lots with natural topography in excess of 30 percent of the surface area of the lot.
- iv. Projects not defined as a Category 1 or 2 but that fall under the purview of this Section 11-02-07.3.C.

#### (4) Hillside Development Restrictions

Any area that presents one or more of the following limiting factors shall not be subject to development unless the project engineer can demonstrate satisfactorily to the City Engineer, based on the required technical reports, that these site limitations can be overcome in such a manner as to minimize hazard to life, hazard to property, and adverse effects on the safety, use, or stability of a public way or drainage channel. Such site limitations to be overcome shall include, but not be limited to the following:

- (a) Landslide areas or scarps, or areas of active landslides.
- (b) Lines of active faults.
- (c) Areas with expansive soils or collapsible soils.
- (d) Slopes greater than 25 percent.
- (e) High water table and springs.

#### (5) Hillside Development Standards

##### (a) Standards Applicable to All Categories of Hillside Development Permits

- i. Planning of development shall account for the topography, soils, geology, vegetation, outstanding features such as outcropping and cliffs, hydrology and other conditions existing on the proposed site.
- ii. Development shall be oriented on the site so that grading and other site preparations are kept to a minimum.
- iii. Essential grading shall be completed during site preparation, rather than left for future lot owners so that:
  - A. Shaping shall blend in with existing topography to minimize the necessity of padding or terracing of building sites; and
  - B. Building pads and terracing shall be graded to blend into the natural contours.
- iv. Paving shall be completed within 60 days after final grading (final grading any grading done after the placement of utilities).
- v. Areas not well suited for development because of soil, geology, vegetation, or hydrology limitations shall be reserved for open space.
- vi. Disruption of existing plant and animal life shall be minimized.
- vii. Innovative methods of slope and soil stabilization, grading, and landscaping are encouraged.
- viii. Multiple access points and street grades that meet requirements of the Boise Fire Department and ACHD shall be provided.

- ix. Pedestrian access to and through the project shall be provided.
- x. A bond and surety agreement or an irrevocable letter of credit in an amount of 110 percent of the cost estimated by the City Engineer is required to enable restoration of the site if the project is not completed as approved. The bonding shall be provided prior to the issuance of a Grading Permit or signing of the Final Plat by the City Engineer.
- xi. Prior to issuance of a Grading Permit, the owner and/or developer shall provide a legally binding easement allowing the City of Boise and/or its agents to enter upon the property to do work, as deemed necessary by the City Engineer, to restore the site's appearance and drainage in case of non-completion or substantial deviation from the approved plans of the project by the developer/owner.
- xii. All work shall be performed in accordance with the latest approved contract plans and specifications. Work not in accordance shall not be accepted. Revisions to the plans and specifications shall be submitted to the City Engineer and Planning Director, allowing sufficient time for review, comment, revision, and approval.

**(b) Grading Standards**

- i. No grading, filling, clearing, or excavation of any kind in excess of 50 cubic yards or stripping of vegetation shall be initiated until the required final grading plan is approved by the Public Works Department and a Grading Permit is issued.
- ii. Fill areas shall be prepared by removing any organic material that is determined by the geotechnical report to be detrimental to proper compaction or otherwise not conducive to stability.
- iii. Borrowing for fill shall be prohibited unless the material is obtained from a cut permitted under an approved grading plan or imported from outside the hillside areas of Ada County. No cuts shall be permitted solely for the purpose of obtaining fill unless approved in the grading plan.
- iv. All retaining walls higher than four feet shall be engineered so that structural members are keyed into stable foundations and are capable of sustaining the design loads.
- v. Fills shall be compacted to at least 95 percent of maximum density, as determined by AASHTO T-99, ASTM D-698, ASTM D-1557 or greater as recommended by the geotechnical report. The frequency of compaction testing shall be addressed in the geotechnical report and shall be approved by the City Engineer.
- vi. Cut slopes shall be no steeper than two feet horizontal to one foot vertical unless it can be shown by the project geotechnical engineer that steeper slopes are feasible, taking into account safety, stability, erosion control, and re-vegetation. For cut slopes steeper than two feet horizontal to one foot vertical, subsurface drainage shall be provided as necessary for stability.
- vii. Fill slopes shall be no steeper than two feet horizontal to one foot vertical unless it can be shown by the project geotechnical engineer that steeper slopes are safe,

stable, erosion resistant, and can be adequately re-vegetated. Fill slopes shall not be located on natural slopes two to one or steeper, or where fill slopes toe out within 12 feet horizontally of the top of an existing or planned cut slope.

- viii. Prior to placement of fill, the ground shall be prepared in accordance with the International Building Code Chapter 18 and Appendix J as amended by Chapter 9-1 of the Boise City Code. Subsurface drainage shall be provided as necessary for stability.
- ix. Tops and toes of cut and fill slopes shall be set back from property boundaries in accordance with the requirements of the International Building Code Chapter 18 and Appendix J as amended by Chapter 9-1 of the Boise City Code.

#### (c) Re-Vegetation and Erosion Control Standards

- i. Vegetation should not be disturbed beyond the limits of the approved grading plan.
- ii. Topsoil removed during construction shall be conserved for later use on areas requiring re-vegetation or landscaping.
- iii. Topsoil shall be placed at a minimum thickness of four inches.
- iv. The minimum acceptable plant coverage is 80 percent two years after planting.
- v. Seed mix shall include deep-rooted plants and subsequent planting of seedlings.
- vi. Erosion shall be controlled to prevent deposition of sediment on adjacent property.

#### (d) Hydrologic Controls

- i. Interceptor ditches or other methods approved by the City Engineer shall be established above all cut or fill slopes, and the intercepted water shall be conveyed to a stable channel with adequate capacity. Provision for ditch maintenance shall be approved by the City.
- ii. Curb, gutter and pavement design and lot grading shall be such that water on roadways is prevented from flowing off roadway, except in conveyance conduits.
- iii. Natural stream channel shall be stabilized using a method acceptable to the City Engineer.
- iv. Runoff from areas of concentrated impervious cover such as roofs, driveways, and roads shall be retained on-site or collected and transported to a channel with sufficient capacity to accept the discharge without erosion or flooding. Provision should be made by the owner or developer for the cleaning of drainage facilities from the onset of construction through the completion of the project.
- v. Waste material from construction, including soil and other solid materials, shall not be deposited within the 100 year floodplain unless the City Engineer concurs that there is no reduction in storage and flow capacity of the floodplain.
- vi. Drainage systems shall be designed to accommodate a 100 year flood event.
- vii. With the exception of road crossings, approved drainage structures, and recreation and open space uses that do not involve the destruction of vegetative cover, development shall be prohibited within the 100 year floodplain.

- viii. Sediment catchment ponds shall be constructed and maintained downstream from each development unless sediment retention facilities are otherwise provided. Any facility used shall provide for the removal of surface debris and contaminants, as well as sediment retention. The facilities shall be designed to facilitate maintenance at minimal cost. Each completed phase of a drainage system shall be designed for the 100 year occurrence.
- ix. The overall drainage system shall be completed and made operational at the earliest possible time during construction.
- x. Alterations of major floodways shall only be made with approved drainage conveyance systems and structures as approved by the City Engineer, Army Corps of Engineers, and FEMA.
- xi. Natural streams or improved open channels shall be preserved or provided for in major (10 acres or larger) catchments except where otherwise approved by the City Engineer. In minor catchments, drainage shall be permitted to be enclosed in conduits.
- xii. Flow rates from a newly developed site shall not exceed the flow rate from the site in its natural condition prior to development. Exceptions shall be appropriate if compliance with the prior sentence creates more adverse impacts to the overall drainage area than other drainage alternatives.
- xiii. Drainage facilities shall be designed to coordinate with any Master Drainage Plan for the drainage basin in which the proposed development is located.
- xiv. Special drainage facilities or an overflow path for floodwater shall be designated in all locations where there is a sag in the profile of the street or at the end of a cul-de-sac that is lower than the intercepting street. Restriction shall be placed to protect the overflow path from the future building of any fence, shed, dwelling, or obstruction that would impede the flood flow.

**(e) Roadways and Circulation**

- i. Roads shall be designed to minimize land coverage and soil disturbance.
- ii. Existing deep-rooted perennial vegetation shall be preserved to the maximum extent practicable.
- iii. Variations in road design and construction and public right-of-way requirements shall be sought through ACHD in order to keep grading and cut or fill slopes to a minimum.
- iv. Road alignments should follow natural contours.
- v. Shared driveways shall be used to the maximum extent practicable.<sup>228</sup>
- vi. One-way couplets shall be encouraged where appropriate for the terrain and where public safety would not be jeopardized. Road width shall be a minimum of 20 feet to allow the passage of emergency vehicles.
- vii. If the sidewalk is to be installed parallel to the roadway on fills, the slope shall be rounded for four feet from the back of the sidewalk.

<sup>228</sup> Wording revised for clarity and reference to cul-de-sac deleted for internal consistency.

- viii. A pedestrian pathway shall be required as approved by the Planning and Zoning Commission.
- ix. Combinations of collective or common private driveways, cluster parking areas, and on-street parallel parking bays shall be used where possible to attempt to optimize the objectives of minimum soil disturbance, minimum impervious cover, excellence of design, and aesthetic sensitivity.

**(f) Maintenance**

The owner of any private property on which grading or other work has been performed pursuant to a grading plan approved under the provisions of the this Section, or a Building Permit granted by the Planning and Development Services Department, within a subdivision approved under the provisions of this Section 11-02-07.3.C, shall maintain in perpetuity and repair all graded surfaces and erosion prevention devices, retaining walls, drainage structures, means, or devices deemed not to be the responsibility of the ACHD or other public agency, and plantings and ground cover installed or completed. Such requirements shall be incorporated into the protective covenants for any subdivision or development.

**(g) Adjustments<sup>229</sup>**

The developer, the project engineer, or the developer's representative may request an adjustment of any of the provisions of this Section 11-02-07.3.A. The request shall be made to both the Planning Director and the City Engineer. The Planning Director and City Engineer shall notify the public of the request for adjustment in accordance with Section 11-05-04.5, *Scheduling and Notice of Public Hearing*. After public notice and comment on the adjustment request, the City Engineer and Planning Director shall review and decide on the proposed adjustment. The decision may be appealed to the Hearing Examiner.

**(h) Inspection and Enforcement**

- i. All construction subject to these regulations shall be subject to inspection by the City Engineer and Planning and Development Services Department in addition to inspections by the Project Engineer and consultants. When required by the City Engineer, special inspections and special testing shall be performed to verify conformance with these regulations. The cost of special inspections and special testing shall be borne by the developer.
- ii. If the City Engineer determines that any portion of the project is not in conformance with the requirements of this Section 11-02-07.3.C and no adjustment of such requirements has been granted, the City Engineer shall notify, in writing, the project engineer and/or developer. The project engineer and/or developer shall take prompt action to resolve the problem(s) enumerated. If corrective action is not taken to the satisfaction of the City Engineer then the City Engineer shall cause a stop work order be issued by the Planning and Development Services Department, notify the agency issuing the bond or irrevocable letter of credit, shall cause the necessary work to be performed at the

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<sup>229</sup> Reference to "waiver" replaced with "adjustment" and appeal changed from City Council to Hearing Examiner in Consolidated Draft.



developer's expense, not sign the Final Plat, cause the Planning and Development Services Department to not issue any additional Building Permits for this development and/or collect on the bond or irrevocable letter of credit.

**E. WUI-O: Wildland Urban Interface Overlay<sup>230</sup>**

**(1) Purpose**

The purpose of the WUI-O is to reduce the risks to human life, property, livelihoods, and wildlife within areas with higher risk of wildfire, and to recognize the clarify the respective roles of the City and property owners in the WUI-O to reduce those risks.

**(2) Responsibility**

Lands within the WUI-O are areas at higher risk for wildland fires and areas known to be frequented by wildlife. An increased risk to wildland fire will continue to be present in and around existing dwellings and new dwellings built in these areas, and it is the responsibility of the property owners within the WUI-O to assist the City to reduce those risks by maintaining their properties and avoiding actions that would increase those risks, as described in this Section 11-02-07.3.E.

**(3) Applicability**

**(a) General**

The provisions of this Section 11-02-07.3.E shall apply to the following activities, except as listed in Subsection (b) below:

- i. All new structures and additions to structures constructed in the WUI-O after the Effective Date; and
- ii. Renovation or modification of primary and accessory structures existing on the Effective Date that increase the gross floor area of the structure on the Effective Date by more than 49 percent.

**(b) Exceptions**

The provisions of this Section 11-02-07.3.E shall not apply to:

- i. Interior renovations, regardless of the gross floor area involved, unless they coincide with exterior modifications exceeding the 49 percent criteria given above.
- ii. Renovation of historic buildings where the proposed renovation is necessary to replace or repair materials that have deteriorated, or to restore historic buildings to their historic appearance in accordance with generally accepted historic preservation practices.
- iii. Relocation of historic buildings at recognized museums.
- iv. Construction, renovation, or modification of accessory buildings used for agricultural purposes and located 50 feet or more from all buildings containing habitable spaces.

<sup>230</sup> New overlay district to address the increased risk to wildland fire and wildlife in and around existing homes and new homes built in Wildland-Urban Interface (WUI) areas.

**(4) Compliance Required**

- (a) All properties and activities subject to this Section 11-02-07.3.E pursuant to Subsection (3) above shall comply with all applicable provisions of this Section 11-02-07.3.E and with all applicable provisions of the Wildland Urban Interface Fire Code as set forth in Chapter 14 of the Boise City Code as adopted and periodically amended or updated.
- (b) Should any provision within this Section conflict with any other provision of the Boise City Code, then the more restrictive shall control.

**(5) Wildland-Urban Interface Map and Classifications**

- (a) The boundaries of the WUI-O and the boundaries of the IR1, IR2, and other subdistricts described below are shown on the zoning map of that district, and generally follow natural and manmade features.
- (b) These generalized zoning district and subdistrict boundaries are subject to interpretation by the Fire Code Official based on the most current fire site conditions and fire risk information, and that Official shall have final authority in determining which lots shall be included within the WUI-O district and the subdistricts described below.

**i. General IR1 Areas**

IR1 areas are required to use Class 1 Ignition-Resistant Construction (IR1), that generally include foothills fire hazard areas. As the City annexes land to the north and west, the IR1 areas will be automatically modified to include annexed lands that are generally north and west of Hill Road.

**ii. General IR2 Areas**

IR2 areas are required to use Class 2 Ignition-Resistant Construction (IR2), that generally depict valley, desert, and other occluded fire hazard areas. Interior lots for IR2 areas may be allowed to use Class 3 Ignition-Resistant Construction (IR3) if the Fire Code Official determines that such construction shall not materially increase the risk of fire-related losses or life or property.

**iii. Other Fire Risk Areas**

The Fire Code Official may identify additional areas at threat from wildfire, that may include but are not limited to properties adjacent to occluded undeveloped properties in areas not historically considered wildland-urban interface areas.

**(6) Access Standards**

Access roads, driveways, driveway turnarounds, and driveway turnouts shall comply with the applicable provisions with the International Fire Code and Boise City Code. The Fire Code Official is authorized to require areas within 10 feet on each side of portions of fire apparatus access roads and driveways to be cleared of non-fire-resistive vegetation growth. The requirement to remove such vegetation does not apply to single specimens of trees, ornamental vegetative fuels or cultivated ground cover, such as green grass, ivy, succulents or similar plants used as ground cover, unless the Fire Code Official determines they form a means of readily transmitting fire.

**(7) Building and Structure Standards**

Buildings in the IR1 and IR2 areas, including but not limited to IR2 perimeter areas abutting undeveloped land, shall comply with the following standards:

**(a) Roofs**

Roofs are required to be a Class A material such as cement shingles or sheets, exposed concrete slab, ferrous or copper shingles or sheets, clay or concrete tile, slate, and metal. The roof covering on buildings or structures in existence prior to the Effective Date that are replaced, or on which 50 percent or more of the roof areas is replaced, during a 12 month period shall be replaced with a roof covering required for new construction based on the type of ignition-resistant construction.

**(b) Building Appendages and Projections**

Unenclosed accessory structures attached to buildings with habitable spaces and projections, including but not limited to decks, shall be not less than one-hour fire-resistance-rated construction or shall be constructed of one of the following:

- i.** Fire-retardant-treated wood identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code;
- ii.** Heavy timber construction with following minimum dimensions: 6 by 6 inches for columns, four by eight inches for joists, four by 10 inches or six by eight inches for beams and three by four inches for ledgers; or
- iii.** Other non-combustible or ignition resistant materials approved by the Fire Code Official.

**(c) Siding**

- i.** Siding shall be constructed of noncombustible and fire resistive materials that are:
  - A.** Materials approved for not less than one-hour fire- resistance-rated construction on the exterior side;
  - B.** Heavy timber or log wall construction;
  - C.** Fire-retardant-treated wood labeled for exterior use and meet the requirements of Section 2303.2 of the International Building Code on the exterior side;
  - D.** Ignition-resistant materials complying with Section 4108.2 on the exterior side; or
  - E.** Other non-combustible or ignition-resistant materials approved by the Fire Code Official.
- ii.** Required siding materials shall extend from the top of the foundation to the underside of the roof sheathing.
- iii.** The siding on buildings or structures in existence prior to the Effective Date that are replaced or on which 50 percent or more of the siding areas is replaced during a 12 month period shall be replaced with siding required for new construction based on the type of ignition-resistant construction.

**(d) Exterior Doors and Windows**

- i. Exterior doors, other than vehicular access doors to garages, shall be noncombustible or solid core not less than one inch thick.
- ii. Exterior windows, window walls, glazed doors, windows within exterior doors, and skylights shall be tempered glass, multilayered glazed panels, glass block or have a fire protection rating of not less than 20 minutes.

**(e) Eaves and Soffits**

- i. Eaves and soffits shall be protected on the exposed underside by ignition-resistant materials in accordance with Section 4108.2 of the International Building Code or by materials approved for not less than one hour fire resistance-rated construction, two inch nominal dimension lumber, or one inch nominal fire-retardant-treated lumber or three-fourth inch nominal fire-retardant-treated plywood, identified for exterior use and meeting the requirements of Section 2303.2 of the International Building Code. Facias are required and shall be protected on the backside by ignition-resistant materials in accordance with Section 4108.2 of the international Building Code or by materials approved for not less than one hour fire-resistance-rated construction or two inch nominal dimension lumber.
- ii. Soffits and eaves shall be constructed as fire resistive materials and shall not include venting or penetrations.

**(f) Chimneys and Vents**

- i. Chimneys and vents serving fireplaces, barbecues, incinerators, or decorative heating appliances in which solid or liquid fuel is used shall be provided with a spark arrester.
- ii. Attic and dryer vents and other small openings shall be screened with one-eighth inch wire mesh.

**(g) Underfloor Areas**

Buildings or structures shall have all under floor areas enclosed to the ground with exterior walls.

**(8) Defensible Space**

- (a) A vegetation plan shall be required for new dwellings and residential subdivisions, and shall provide a minimum of 30 feet of defensible space around the perimeter of each principal dwelling structure.
- (b) Within the defined defensible space, only plantings recommended by the National Fire Protection Association Firewise program and hardscapes including but not limited to concrete or masonry patios, walkways, walls, boulders, or rock mulch, shall be installed.

**(9) Vegetation**

- (a) Landscaping shall include only fire-resistive plantings.
- (b) Landscaping shall include seed mixes and landscaping plants of native origin, suitable for dryland applications, and that are drought-resistant, and deer and elk resistant.

- (c) Landscaping shall not include Japanese, Chinese, European, or hybrid varieties of ornamental yew species.

**(10) Fencing**

- (a) Solid fencing at least six feet in height shall be installed along all rear and side property boundaries that abut undeveloped property to provide visual barriers to deer and elk.
- (b) Where the requirement for a solid fence in Subsection (a) does not apply, fences using horizontal wires or rails shall have spacing between horizontal wires or rails of at least 12 inches between the top two and 18 inches between the lower cross member and the ground, with a maximum height not exceeding 40 inches.
- (c) Wrought iron, chain link, and fencing that includes points, spires or finials that can cause injury to animals are prohibited.

**(11) Incinerators, Outdoor Fireplaces, Permanent Barbecues and Grills**

- (a) Incinerators, outdoor fireplaces, permanent barbecues, and grills shall not be built, installed or maintained unless the Fire Code Official determines that the location, design, and operation of those items will not materially increase wildfire risk.
- (b) Where permitted by the Fire Code Official, incinerators, outdoor fireplaces, permanent barbecues, and grills shall include an approved spark arrester, screen, or door on each opening and shall be maintained in good repair and in a safe condition at all times.

**(12) Storage of Firewood, Flammable and Combustible Materials**

- (a) Firewood and other flammable and combustible material shall not be stored in unenclosed spaces beneath buildings or structures, or on decks or under eaves, canopies, or other projections or overhangs.
- (b) When required by the Fire Code Official, unenclosed storage of firewood and combustible material in the defensible space shall be located a minimum of 20 feet from structures and shall be separated from the crown of all trees by a minimum horizontal distance of 15 feet.

**(13) Keeping of Domestic Livestock**

- (a) Domestic livestock such as horses, llamas, and cows shall be fed in distinct, fenced enclosures that have fencing or other features to prohibit the entrance of big game into the area.
- (b) All feed shall be stored in sheds or enclosures and shall not be visible to big game animals on surrounding properties.
- (c) Domestic fowl shall be housed in wildlife-proof homes.

## 11-02-08. Specific Plan Districts

### 1. Purpose

Specific Plan Districts provide a means to modify or create new zoning regulations for unique areas and developments where other conventional zoning mechanisms cannot achieve the desired results. Specific plans shall implement and be consistent with the Comprehensive Plan including the land use map and policies.

### 2. Scope<sup>231</sup>

#### A. Examples of Specific Plans

Specific Plans may take the form of mixed use districts and planned communities or planned development. Each Specific Plan has its own non-transferable set of regulations. The regulations may include zoning standards, design guidelines, a site plan, an infrastructure plan, a phasing plan, and other elements. Specific Plans are adopted into the Code by ordinance and become either the base zoning district or an overlay zoning district for the property.

#### B. Basic Specific Plan

A specific plan may be an overlay zoning district that modifies or expands the base zoning district to allow different dimensional standards, streetscape treatments, and architectural designs. Every basic specific plan should include a detailed site plan and illustrations.

#### C. Specific Plan Elements

A Specific Plan may address a very large site of hundreds of acres. In this case, the Specific Plan may include many different chapters with detailed standards for the issues addressed in each chapter. For example, a large, planned community Specific Plan may include a detailed land use plan with lotting patterns, building envelopes, and street networks. Detailed zoning standards could be included that address setbacks, building heights, mix of uses, and parking ratios. A design chapter could describe materials, architectural styles, and sign programs. A landscape section could address open space with a plant palette and irrigation plans. A transportation chapter could include roadway cross sections and streetscapes, pathways, or a public transportation or transportation management program. An infrastructure chapter could address the location, sizing and timing of sewer, water, fire, and other facilities. An environmental chapter could address water quality, riparian protection, revegetation of graded slopes and similar issues. A phasing chapter could identify how the construction would proceed and at which point in time certain infrastructure elements would be installed. A review process chapter could describe the specific review and approval process for individual phases within the project. In this case, the Specific Plan might constitute all aspects of project approval short of subdivision Final Plat approval.

### 3. Land Use Controls

The type of uses and amount of development in a SP district shall be as established by the Specific Plan. Pre-existing lawful nonconforming uses shall be permitted in a SP district. Any permitted or conditional use may be included in a Specific Plan District.

<sup>231</sup> Deleted current "Basic Specific Plan" allowances as the new approach to PUD districts is intended to replace Basic Specific Plans, leaving the Specific Plans currently described as "complex" as the sole use of Specific Plan Districts.

#### 4. Initiation

An amendment may be initiated by a property owner or authorized agent, the Planning and Zoning Commission, or City Council. If the property is not under a single ownership, the majority of ownership shall join in the application, and a map showing the extent of ownerships shall be submitted with concept plans and materials. For the purposes of this Section, a majority of ownership shall be defined as either 75 percent of the affected owners or 75 percent of the affected land area. For projects larger than 200 acres, a neighborhood scoping meeting, per Section 11-05-04.3.B, *Neighborhood Meeting*, between the applicant and the City shall be conducted prior to application submittal to determine which supporting materials and specific plan elements shall be appropriate and required for the proposal.

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#### 5. Minimum Area Standards

The minimum area of a SP district shall be two acres or one city block.



# Chapter 11-03 Use Regulations

## 11-03-01. General

### Commentary

This Chapter includes the proposed use regulations applicable throughout Boise. The Chapter begins with the table of allowed uses and is followed by Use-Specific Standards that may or shall not apply to a particular use in a zoning district.

In the Table of Allowed Uses (Table 11-03.1), the current lineup of zoning districts is included along the second row for reference and convenience, demonstrating generally how those current districts relate to the new proposed zoning districts. The reference to current districts will be removed prior to adoption but can be retained for as long as necessary during public review of the Zoning Code Rewrite.

#### 1. Purpose<sup>232</sup>

The purpose of this Chapter 11-03 is to identify the land uses allowed in Boise's zoning districts following administrative review or a public hearing, and establishes the standards that apply to those uses to mitigate potential impacts and support unique characteristics of the use in a particular location.

#### 2. Organization of the Table<sup>233</sup>

- A. In Table 11-03.1: *Table of Allowed Uses*, land uses and activities are classified into general "use categories" and specific "uses" based on common functional, product, or physical characteristics such as the type and amount of activity, the type of customers or residents, how goods or services are sold or delivered, and site conditions. This provides a systematic basis for assigning present and future land uses into appropriate zoning districts and for avoiding overlaps and inconsistencies between similar land uses.
- B. The left-hand column of Table 11-03.1: *Table of Allowed Uses* lists all use categories and uses available in the city. Columns in the center of the table correspond to each base zoning district in the city and indicate whether the use is allowed in that district. The right-hand column indicates whether Use-Specific Standards apply to that use in some or all of the zoning districts in which it is allowed.

#### 3. Abbreviations Used in the Table<sup>234</sup>

##### A. Allowed Uses

An "A" in a cell indicates that the use is allowed by right and is not subject to Use-Specific Standards or other special conditions other than those imposed upon other uses by right in the district. Allowed uses are subject to all other applicable regulations of this Code. Allowed uses are generally reviewed through a Type 1 or Type 2 process, as shown in Section 11-05-04.2 *Four Paths for Review and Approval*.

##### B. Allowed Subject to Use-Specific Standards

An "A\*" in a cell indicates that the use is allowed by right, subject to administrative review and the issuance of a Zoning Certificate to verify compliance with Use-Specific Standards that do

<sup>232</sup> New.

<sup>233</sup> Simplified from current Section 11-06-02.1.

<sup>234</sup> Descriptions of Table abbreviations modified in Consolidated Draft to reference application types with which they are usually associated.

not include Use-Specific Form Standards. Use-Specific Standards are noted through a cross-reference in the last column of the table, and the cross-referenced content appears in Section 11-03-03, *Use-Specific Standards*. Uses that are allowed subject to Use-Specific Standards are generally reviewed through a Type 2 process, as shown in Section 11-05-04.2 *Four Paths for Review and Approval*.

#### C. Special Allowed Use<sup>235</sup>

An "S\*" in a cell indicates that the use is allowed in that zoning district if it meets all of the Use-Specific Standards (including all Use-Specific Form Standards) applicable to that use, but that will be considered as having an Alternative Form that requires review and approval by the Planning Commission if it does not meet all of the Use-Specific Form Standards. An "S\*" designation indicates that the use is one in which the site and building design and the proposed development intensity significantly impact the future anticipated buildout of the city and the efficient use of City resources and infrastructure. Special Allowed Uses are generally reviewed through a Type 2 or 3 process, as shown in Section 11-05-04.2 *Four Paths for Review and Approval*.

#### D. Conditional Uses<sup>236</sup>

A "C" or "C\*" in a cell indicates that the use is allowed in that zoning district only if reviewed and approved as described in Section 11-03-04.6, *Conditional Use Permits*. Conditional uses are subject to all other applicable regulations of this Code, including the Use-Specific Standards in this Chapter and the requirements of Chapter 11-04, *Development and Design Standards*. The "C" designation does not suggest or require that the use will be approved in that district. Rather, each Conditional Use Permit application is evaluated as to its potential to have a positive effect on adjacent properties and surrounding areas, among other factors, and may be approved, approved with conditions, or denied based on the findings of the decision-making body. Conditional uses are generally reviewed through a Type 3 process, as shown in Section 11-05-04.2 *Four Paths for Review and Approval*.

#### E. A/C Uses

An "A/C" or "A\*/C\*" in a cell indicates that the use is allowed in that zoning district under some circumstances or in some locations, but requires approval as described in Section 11-03-04.6, *Conditional Use Permits* under other circumstances or in other locations. The Use-Specific Standards cross-referenced in the right-hand column clarify those cases in which a Conditional Use Permit is required. These uses are generally reviewed through a Type 2 or Type 3 process, as shown in Section 11-05-04.2, *Four Paths for Review and Approval*.

#### F. Prohibited Uses

A blank cell indicates that the use is prohibited in that zoning district.<sup>237</sup>

<sup>235</sup> New in Consolidated Draft.

<sup>236</sup> The current C+ designation, which indicates that a use may only be approved as part of a larger mixed-use project, was not carried forward. This same result can be achieved through Use-Specific Standards that require the use to be located on the ground floor or upper floor or street-facing facade of a building containing other principal uses.

<sup>237</sup> The Special Exception process has not been carried forward and permission for approval of a prohibited use requires rezoning into a district that permits that use.

**4. Use for Other Purposes Prohibited<sup>238</sup>**

- A.** Approval of a use listed in Table 11-03.1: *Table of Allowed Uses*, and compliance with the applicable Use-Specific Standards for that use, authorizes that use only. Development or use of a property for any other use not specifically allowed in Table 11-03.1: *Table of Allowed Uses* and approved pursuant to this Code is prohibited.
- B.** Any use allowed as a principal use in a zoning district is allowed as an accessory use to an allowed or approved conditional use in that zoning district.

**5. Multiple Uses<sup>239</sup>**

- A.** A lot or parcel in a Residential zoning district may include only one principal use, but may also include any accessory or temporary uses as shown in Table 11-03.1: *Table of Allowed Uses*, provided that a Conditional Use Permit is obtained for any conditional accessory use, and that all Use-Specific Standards applicable to each use are met.
- B.** A lot or parcel in a Mixed-Use, Industrial, or Open Land and Institutional zoning district may include multiple principal uses, including a combination of residential and nonresidential uses, provided that each use is either an allowed use or a conditional use in that zoning district, that a Conditional Use Permit is obtained for any conditional use, and that all Use-Specific Standards applicable to each use are met.

**6. Previously Allowed Uses<sup>240</sup>**

Each use that exists on the Effective Date that is required by this Code to obtain a Conditional Use Permit, but that was not required to obtain a Conditional Use Permit under the regulations in effect before the Effective Date, is deemed to have a Conditional Use Permit to continue operations as they existed on the Effective Date or as authorized by any approval or permit issued by the City for that property and use before the Effective Date.

**7. Classification of New and Unlisted Uses<sup>241</sup>**

- A.** In order to provide for new types of land uses not listed in Table 11-03.1: *Table of Allowed Uses*, a determination as to the appropriate classification of any new or unlisted form of land use shall be made by the Planning Director. When an application is made for a use category or use that is not specifically listed in Table 11-03.1: *Table of Allowed Uses*, the Planning Director shall provide an interpretation as to the zoning classification into which such use should be placed. In making such interpretation, the Planning Director shall consider its potential land use impacts, including but not limited to:
  - (1) The nature of the use and whether it involves a dwelling unit;
  - (2) Sales;
  - (3) Processing;
  - (4) Type of product, storage and amount, and nature thereof;
  - (5) Enclosed or open storage;
  - (6) Anticipated employment;
  - (7) Transportation requirements;

<sup>238</sup> Subsection B is new.

<sup>239</sup> New.

<sup>240</sup> New.

<sup>241</sup> Criteria (7) through (9) are new. Reference to traffic removed in Consolidated Draft.

- (8) Hours of operation;
  - (9) Intensity of the proposed use;
  - (10) The amount of noise, odor, fumes, dust, toxic material, and vibration likely to be generated; and
  - (11) General requirements for public utilities such as water and sanitary sewer.
- B. If the Planning Director determines that that proposed use should not be included in any existing zoning classification, based on the factors listed in Subsection A., the use shall not be conducted in the city unless and until City Council amends this Code to define the use and to indicate in which zoning districts, and under what conditions, it should be allowed.

## 8. All Licenses and Permits Required<sup>242</sup>

- A. All uses required by any unit of local, state, or federal government to have an approval, license, or permit to operate are required to have that local, state, or federal approval, license, or permit in effect at all times, and failure to do so is a violation of this Code.
- B. All uses subject to the operational standards of a local, state, or federal government agency, including without limitation the regulations contained in the Boise City Code and regulations of the Idaho Department of Health and Welfare, shall operate in compliance with those standards and regulations at all times, and failure to do so is a violation of this Code.

## 9. Industrial and Heavy Commercial Uses

All allowed uses that generate, use, treat, store, or dispose of hazardous substances (as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 261.30 et seq., 302.4 and/or 355), shall require a Conditional Use Permit.

### 11-03-02. Table of Allowed Uses<sup>243</sup>

#### Commentary:

The current Boise Zoning Code Use Table contains many outdated and narrowly defined uses. This revised table contains numerous footnotes to identify which existing uses have been consolidated into broader, more flexible use categories and which obsolete uses have not been carried forward. Although lengthy, these footnotes will be removed before the Code is adopted and the Table of Allowed Uses will be reduced to a few pages.

In addition, the table below includes color coding. Black font indicates that the use is permitted or requires a Conditional Use Permit in the same zoning districts where that is true under the current Code. **Green font** entries in the left-hand column indicate new uses that have been added. **Green highlighted** entries in the right-hand column indicate that new Use-Specific Standards have been added to mitigate potential impacts of the use on surrounding properties. **Green font** entries in individual cells indicate uses that would be easier to obtain in at least one of the included zoning districts. Green font could indicate that the use was previously not available in one or more of the include zoning district, but is now available; or it could indicate that the use currently requires a Conditional Use Permit but would become an allowed us in the future. In many cases, the changes indicated by **green font** are accompanied by new Use-Specific Standards in the right-hand column. **Red font** entries indicate that the use would be harder

<sup>242</sup> New.

<sup>243</sup> Carried forward current Section 11-06-02 unless otherwise noted.

to obtain (for example, it is currently an Allowed Use, but is recommended to become a Conditional Use in that zoning district), or the use would not be available in that zoning district.

Table 11-03.1: *Table of Allowed Uses* lists the uses allowed within all base zoning districts. Each of the listed uses is defined in Chapter 11-06, *Definitions*.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                         | R-1A | R-1B    | R-1C    | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|---|------|---------|---------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT                        | R-1A | R-1B    | R-1C    | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| <b>Residential Uses</b>                         |      |         |         |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| <b>Household Living</b>                         |      |         |         |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| Accessory Dwelling Unit <sup>245</sup>          | A*   | A*      | A*      | A*        | A*  | A*  | A*   | A*   |      |      | A*   |          |     | A*  | A*  | A*  | 11-03-03.2.A(1)              |
| Caretaker's Residence <sup>246</sup>            |      |         |         |           |     |   |      |      |      | A    |      | A        | A   | A   | A   | A   |                              |
| Dwelling, Single-Family Detached <sup>247</sup> | A*   | A*      | A*      | A*        |     |   |      |      |      |      |      |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.C |
| Dwelling, Cottage Village <sup>248</sup>        | C*   | A*+ /C* | A*+ /A* | A*        | A*  |   |      |      |      |      | A*   |          |     |     |     |     | 11-03-03.2.D                 |
| Dwelling, Single-Family Attached <sup>249</sup> |      | A*+     | A*+     | A*        | A*  | S*  | A*   |      |      |      | A*   |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.E |
| Dwelling, Live/Work                             | A*   | A*      | A*      | A*        | A*  | A*  | A*   | A*   |      |      | A*   |          |     |     |     |     | 11-03-03.2.F                 |

<sup>244</sup> All "S" entries in the table are new in Consolidated Draft.

<sup>245</sup> A Tiny House may be installed as an Accessory Dwelling Unit in those zoning districts where ADUs are allowed.

<sup>246</sup> A Tiny House may be installed as a Caretaker's Residence in those zoning districts where Caretaker's Residences are allowed.

<sup>247</sup> A Tiny House may be installed as a Single-Family Dwelling in those zoning districts where that use is permitted.

<sup>248</sup> A Tiny House may be installed in a Cottage Village.

<sup>249</sup> New use. Defined to include five or more dwelling units attached by vertical party walls, each with its own entrance directly to a fronting street.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT              | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|--------------------------------------|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT             | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| Dwelling, Duplex                     | A*   | A*   | A*   | A*        | A*  | S*  | A*   | S*   |      |      | A*   |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.G |
| Dwelling, Triplex                    | A*+  | A*+  | A*+  | A*        | A*  | S*  | A*   | S*   |      |      | A*   |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.G |
| Dwelling, Fourplex                   | A*+  | A*+  | A*+  | A*        | A*  | S*  | A*   | S*   |      |      | A*   |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.G |
| Dwelling, Multifamily <sup>250</sup> |      | A*+  | A*+  | A*        | A*  | S*  | A*   | S*+  | S*+  | S*   | A*   |          |     |     |     |     | 11-03-03.2.A<br>11-03-03.2.H |
| Manufactured Home <sup>251</sup>     | A*   | A*   | A*   | A*        | A*  |   |      |      |      |      |      |          |     |     |     |     | 11-03-03.2.I                 |
| Manufactured Home Community          | C*   | C*   | C*   | C*        | C*  | C*  | C*   | C*   | C*   |      |      |          |     |     |     |     | 11-03-03.2.J                 |
| Group Living                         |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| Assisted Living Facility             |      |      |      | C*        | C*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.2.K                 |
| Boarding or Rooming House            |      |      |      | C         | A   | A   | A    | A    | A    | A    |      |          |     |     |     |     |                              |

<sup>250</sup> Added to the U district as a new use as many university campuses include multifamily residential uses for faculty or graduate students. Deleted as A use in I-1 district in Consolidated Draft.

<sup>251</sup> A Tiny House may be installed as a Manufactured Home in those zoning districts where Manufactured Homes are permitted and where the Tiny House meets applicable minimum size requirements for Manufactured Homes.



**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT              | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|--------------------------------------|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT             | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Continuing Care Retirement Facility  |      |      |      | C*        | C*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.2.K           |
| Convalescent or Nursing Home         |      |      |      | C*        | C*  | A*  | A*   | A*   | A*   | A*   | C*   |          |     |     |     |     | 11-03-03.2.K           |
| Dwelling, Co-Housing <sup>252</sup>  |      | C*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.2.L           |
| Fraternity or Sorority House         |      |      |      | C*        | C*  |   |      |      |      |      | C*   |          |     |     |     |     | 11-03-03.2.K           |
| Group Home, FHAA Small               | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | C*   |      |          |     |     |     |     | 11-03-03.2.M           |
| Group Home, FHAA Large               |      |      |      | A*        | A*  | A*  | A*   | A*   | A*   | C*   |      |          |     |     |     |     | 11-03-03.2.K           |
| Temporary Housing, Small             |      |      |      | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.2.M           |
| Temporary Housing, Large             |      |      |      | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.2.K           |
| Public, Institutional and Civic Uses |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |

<sup>252</sup> New, includes single-room occupancy facilities, and allowed in districts where single-room occupancy use was previously proposed.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                              | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                             | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Adult or Child Day Care                              |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Adult or Child Day Care Facility <sup>253</sup>      | C*   | C*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.3.A           |
| Adult or Child Day Care Center, Small <sup>254</sup> |      |      |      | C*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.3.A           |
| Adult or Child Day Care Center, Large <sup>255</sup> |      |      |      |           | C*  | C*  | C*   | C*   | C*   | C*   | A*   |          |     |     |     |     | 11-03-03.3.A           |
| Community and Cultural Facilities                    |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Art Gallery, Museum, or Library                      |      |      |      |           |     | A   | A    | A    | A    | A    | A    |          |     |     |     |     |                        |
| Cemetery   | C*   |      |      |           |     |   |      |      |      |      |      |          |     | C*  | C*  | C*  | 11-03-03.3.B           |
| Community Center                                     |      | C    | C    | A         | A   | A   | A    | A    | A    | A    | A    |          |     |     |     |     |                        |
| Fire, Police, or Public Safety Facility              | C    | C    | C    | C         | C   | A   | A    | A    | A    | A    | A    | A        | A   | C   | C   | C   |                        |

<sup>253</sup> Replaces "Group Child Care Center" and consolidated with "Adult Day Care." Renamed to align with §39-1102 of the Idaho Statutes. The home-based day care uses have been relocated to accessory uses. Deleted "After-school Child Care in school building" as this is a common accessory use to all schools.

<sup>254</sup> Consolidated "Adult Day Care," and "Intermediate Child Care Center." Renamed to align with §39-1102 of the Idaho Statutes.

<sup>255</sup> Consolidated "Adult Day Care" and "Large Child Care Center." Renamed to align with §39-1102 of the Idaho Statutes.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT           | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|-----------------------------------|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT          | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Food Kitchen                      |      |      |      |           |     | A   | A    | A    | A    | A    | A    |          |     |     |     |     |                        |
| Forest Reserve or Recreation Area | A    |      |      |           |     |   |      |      |      |      |      |          |     | A   | A   | A   |                        |
| Jail or Detention Facility        |      |      |      |           |     |   |      |      |      |      |      |          | C*  |     |     |     | 11-03-03.3.C           |
| Mortuary or Mausoleum             |      |      |      | C*        | C*  | A   | A    | A    | A    | A    |      |          |     |     |     |     | 11-03-03.3.B           |
| Park or Playground                | A    | A    | A    | A         | A   | A   | A    | A    | A    | A    | A    | A        |     | A   | A   | A   |                        |
| Religious Institution             | C    | C    | C    | C         | C   | A   | A    | A    | A    | A    |      |          |     |     |     |     |                        |
| Shelter Home                      |      |      |      |           |     |   | C    | C    | C    | C    |      |          |     |     |     |     |                        |
| <b>Education and Health</b>       |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Hospital                          |      |      |      |           |     | C   | A    | A    | A    | A    | C    |          |     |     |     |     |                        |
| School                            | C*   | C*   | C*   | C*        | C*  | A*  | A*   | A*   | A*   | A*   | C*   |          |     |     |     |     | 11-03-03.3.D           |
| University <sup>256</sup>         |      |      |      |           |     |   |      |      |      | A    | A    |          |     |     |     |     | 11-03-03.3.E           |
| <b>Transportation</b>             |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Aircraft Landing Field            |      |      |      |           |     |   |      |      |      |      |      | C        | C   |     |     |     |                        |

<sup>256</sup> Consolidated all "University" uses. Requirements for uses within 50 ft. and 300 ft. of campus boundaries relocated to Use-Specific Standards.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                           | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                          | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Park and Ride Facility                            |      |      |      | A         | A   | A   | A    | A    | A    | A    | A    | A        | A   |     |     |     |                        |
| Transit Terminal <sup>257</sup>                   |      |      |      |           |     | C   | A    | A    | A    | A    | A    | A        | A   |     |     |     |                        |
| Transit Facility                                  |      |      |      | A         | A   | A   | A    | A    | A    | A    | A    | A        | A   | A   | A   |     |                        |
| <b>Commercial Uses</b>                            |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| <b>Agricultural and Animal Uses<sup>258</sup></b> |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Agricultural Uses or Stables                      | A    |      |      |           |     |   |      |      |      |      |      |          |     | A   | A   | A   |                        |
| Animal Daycare or Kennel <sup>259</sup>           | A*   |      |      |           | C*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.4.A           |
| Animal Hospital or Clinic                         | A    |      |      |           | C   | A   | A    | A    | A    | A    |      |          |     |     |     |     |                        |
| Commercial Feedlot                                |      |      |      |           |     |   |      |      |      |      |      | C        | C   |     |     |     |                        |
| Slaughterhouse, Rendering Plant                   |      |      |      |           |     |   |      |      |      |      |      | C        | C   |     |     |     |                        |
| Urban Farm  | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.4.B           |

<sup>257</sup> Includes the current Bus Station use.

<sup>258</sup> Deleted "Small Animal Grooming" as there were no uses listed under the heading and added to Animal Daycare use.

<sup>259</sup> Consolidates current Animal Daycare or Grooming and Kennel uses.

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT  | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT   | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Communication Facilities <sup>260</sup>  |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Attached Wireless Communication Facility   | A    | A    | A    | A         | A   | A   | A    | A    | A    | A    | A    | A        | A   | A   | A   | A   | 11-03-03.4.C           |
| Freestanding Wireless Communication Facility – Monopole/Structure ≤ Base Height of Zoning District | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.4.C           |
| Freestanding Wireless Communication Facility – Monopole/Structure > Base Height of Zoning District |      |      |      |           | C*  | C*  | C*   | C*   | C*   | C*   | C*   | C*       | C*  |     |     |     | 11-03-03.4.C           |

<sup>260</sup> "Radio and Television Station" removed as a separate use. It is now consolidated with the Office use. New use types (attached and freestanding monopole/structure) reflect revisions made in ZOA21-00004.

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                                   | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                                  | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Other Communication Towers <sup>261</sup>                 | C    |      |      |           | C   | C   | C    | C    | C    | C    | C    | C        | C   | C   | C   | C   |                        |
| Food and Beverage Service                                 |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Brewpub, Micro-distillery, or Micro-winery <sup>262</sup> |      |      |      |           |     | S*  | A*   | S*   | S*   | S*   |      | A*       | A*  |     |     |     | 11-03-03.4.D           |
| Food Truck Court  |      |      |      |           | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.4.E           |
| Neighborhood Café <sup>263</sup>                          |      |      | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.4.F           |
| Restaurant  |      |      |      |           | A*  | S*  | A*   | S*   | S*   | S*   | A*   |          |     |     |     |     | 11-03-03.4.G           |
| Tavern or Lounge  |      |      |      |           |     | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     |                        |
| Lodging   |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Bed and Breakfast <sup>264</sup>                          | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     |     | 11-03-03.4.H           |

<sup>261</sup> Renames the current Lattice/Transmission Tower use.

<sup>262</sup> New use.

<sup>263</sup> Renamed from Coffee/Esspresso Stand.

<sup>264</sup> Relocated from Group Living Uses.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                      | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                     | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Hotel or Motel                               |      |      |      |           | C   |   | A    | A    | A    | A    | C    |          |     |     |     |     |                        |
| Recreation Vehicle Park                      |      |      |      |           |     | C*  | C*   | C*   | C*   | C*   |      |          |     |     |     |     | 11-03-03.4.J           |
| Office, Personal and Business Service        |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |
| Financial Institution                        |      |      |      |           | A*  | A   | A    | S*   | A    | A    |      |          |     |     |     |     | 11-03-03.4.J           |
| Medical or Dental Clinic <sup>265</sup>      |      |      |      |           | A*  | A   | A    | S*   | A    | A    | A    | A        |     |     |     |     | 11-03-03.4.J           |
| Office <sup>266</sup>                        |      |      |      |           | A*  | S*  | A    | S*   | S*   | S*   | A*   | C*       | C*  |     |     |     | 11-03-03.4.K           |
| Personal and Business Service <sup>267</sup> |      |      |      |           | A*  | S*  | A    | S*   | S*   | S*   |      | A        |     |     |     |     | 11-03-03.4.J           |
| Recreation and Entertainment <sup>268</sup>  |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |

<sup>265</sup> Definition expanded to include dental offices.

<sup>266</sup> Includes the current radio and television station use (which is an office use) without towers (which are regulated as communications facilities).

<sup>267</sup> Consolidated both "Personal Service" uses, "Laundry and Dry Cleaning Service," "Massage Establishment," "Photography Studio," "Printing, Lithography, Publishing & Reproductions, Exclusive of Paper Manufacturing," "Tattoo Parlor," and "Self-Service Laundry."

<sup>268</sup> Removed "Indoor Recreation – Health Club or Similar Use within an Existing Building," and "Swimming Lessons, Home Occupation."



**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                      | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                        |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                     | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Auditorium or Theater, Indoor <sup>269</sup> |      |      |      |           |     | C   | C    | C    | A    | A    | A    |          |     |     |     |     |                        |
| Club, Lodge, or Social Hall                  |      |      |      |           | C   | A   | A    | A    | A    | A    |      |          |     |     |     |     |                        |
| Conference or Event Center <sup>270</sup>    |      | ■    | ■    | ■         | ■   | C   | A    | A    | A    | A    | A    |          |     |     |     |     |                        |
| Firing Range, Indoor                         |      |      |      |           |     |   | C*   | C*   | C*   |      |      | C*       |     |     |     |     | 11-03-03.4.1           |
| Golf Course                                  | A    | C    | C    | C         | C   |   |      |      |      |      |      |          |     | C   | C   | ■   |                        |
| Recreation, Indoor <sup>271</sup>            | A    | C    | C    | C         | C   | A   | A    | A    | A    | A    | A    |          |     | C   | C   |     |                        |
| Recreation, Outdoor <sup>272</sup>           | A    | C    | C    | C         | C   | C   | C    | C    | C    | C    | A    |          |     | C   | C   |     |                        |
| Retail <sup>273</sup>                        |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                        |

<sup>269</sup> Renamed from "Concert Hall/Dance Hall" and consolidated with "Theater."

<sup>270</sup> Renamed and expanded definition of "Social Event Center."

<sup>271</sup> Consolidated "Health Club," "Recreation, Commercial – Indoor" and "Swimming Pool, Commercial."

<sup>272</sup> Consolidated "Golf Driving Range," and "Swimming Pool, Commercial."

<sup>273</sup> Removed all "Shopping Center" uses. Reference new definition for "Retail Sales" that broadly defines retail including the following uses removed from the table, "Auction Establishment," "Convenience Store with Gasoline Service," "Grocery," "Pharmacy," "Retail Store <60,000 s.f. GFA," and "Retail Store >60,000 s.f. GFA." "Drive-Up Establishment" replaced with "Drive-Through Facility" and relocated to Accessory Uses.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                   | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                                    |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------------|
| PROPOSED ZONING DISTRICT                  | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS             |
| Building Materials <sup>274</sup>         |      |      |      |           |     |   | C    |      |      |      |      | A        | A   |     |     |     |                                    |
| Retail Sales, Neighborhood                |      |      | A*   | A*        | A*  |   |      |      |      |      |      |          |     |     |     |     | 11-03-03.4.M                       |
| Retail Sales, Small                       |      |      |      |           |     | S*  | A    | S*   | S*   | S*   | A    |          |     |     |     |     | 11-03-03.4.N                       |
| Retail Sales, Medium                      |      |      |      |           |     |   | A    | S*   | S*   | S*   | A    |          |     |     |     |     | 11-03-03.4.N                       |
| Retail Sales, Large                       |      |      |      |           |     |   | A    | S*   | S*   | S*   | C    |          |     |     |     |     | 11-03-03.4.N                       |
| Retail Sales, Big Box                     |      |      |      |           |     |   | C    | C    | C    | C    |      |          |     |     |     |     |                                    |
| Sexually Oriented Business                |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                                    |
| Sexually Oriented Business <sup>275</sup> |      |      |      |           |     |   | C*   | C*   | C*   | C*   |      | C*       | C*  |     |     |     | 11-03-03.4.O                       |
| Vehicles and Equipment <sup>276</sup>     |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                                    |
| Parking Garage                            |      |      |      |           |     |   | C*   | C*   | C*   | A*   | A*   |          |     |     |     |     | See Sections 11-04-07 and 11-04-09 |

<sup>274</sup> Renamed from "Building Materials, Hay, Grain, Bulk Garden Supply, Heavy Materials."

<sup>275</sup> The obsolete Bikini Bar use is not carried forward, but Use-Specific Standards limit adult uses to the same types of activities in those districts where the current ordinance only allows bikini bars

<sup>276</sup> Removed "Auto Emission Van Test Site" and "Parking Lot, Off-Site Accessory."

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT   | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                                    |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------------|
| PROPOSED ZONING DISTRICT  | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS             |
| Parking Lot   |      |      |      |           |     | ■   | A*   |      |      | C*   | A*   |          |     |     |     |     | See Sections 11-04-07 and 11-04-09 |
| Service Station   |      |      |      |           |     | C*  | A*   | C*   |      |      |      | A*       | A*  |     |     |     | 11-03-03.4.P                       |
| Vehicle Fleet Operations Center                                       |      |      |      |           |     |   |      |      |      |      | A    | A        | A   |     |     |     |                                    |
| Vehicle Repair, Major   |      |      |      |           |     |   | A*   |      |      |      | C*   | A*       | A*  |     |     |     | 11-03-03.4.Q                       |
| Vehicle Repair, Minor   |      |      |      |           |     | C*  | A*   | A*   |      |      | A*   | A*       | A*  |     |     |     | 11-03-03.4.Q                       |
| Vehicle Sales, Rental, and Leasing, Light <sup>277</sup>              |      |      |      |           |     |   | C*   |      |      |      |      | C*       | ■   |     |     |     | 11-03-03.4.R                       |
| Vehicle and Equipment Sales, Rental and Leasing, Heavy <sup>278</sup> |      |      |      |           |     |   |      |      |      |      |      | C*       | ■   |     |     |     | 11-03-03.4.R                       |
| Vehicle Wash  |      |      |      |           |     | C   | A    |      |      |      |      | A        | A   |     |     |     |                                    |
| Industrial Uses <sup>279</sup>  |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                                    |

<sup>277</sup> Renamed from "Automotive Sales Lot, Surface."

<sup>278</sup> Renamed from "Heavy Machinery, Trailer, and Equipment Sales or Rental Lot."

<sup>279</sup> Removed "Blacksmith Shop."

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                 | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2   | A-1 | A-1 | A-2 |                        |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-------|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT                | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2   | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Manufacturing and Processing            |      |      |      |           |     |   |      |      |      |      |      |          |       |     |     |     |                        |
| Contractor Shop and Yard <sup>280</sup> |      |      |      |           |     |   | C    |      |      |      |      | A        | A     |     |     |     |                        |
| Industry, Artisan                       |      |      |      |           |     | A*  | A*   | A*   | A*   | A*   |      | A*       | A*    |     |     |     | 11-03-03.5.A           |
| Industry, Light <sup>281</sup>          |      |      |      |           |     |   | C    |      |      |      |      | A*/C*    | C*    |     |     |     | 11-03-03.5.B           |
| Industry, Heavy <sup>282</sup>          |      |      |      |           |     |   |      |      |      |      |      | C*       | A*/C* |     |     |     | 11-03-03.5.B           |
| Mining and Extraction <sup>283</sup>    |      |      |      |           |     |   |      |      |      |      |      | C*       | C*    |     |     |     | 11-03-03.5.C           |

<sup>280</sup> Consolidated "Contractor Shop, " and "Utility Shop or Storage Facility."

<sup>281</sup> Consolidated "Laundry, Industrial," "Newspaper & Printing Establishment," "Brewery, Distillery, Winery," "Food Products, Dairy Products & Wholesale Bakeries," "Wigs, hair products, toiletries and barbering supplies," "Signs and other metal workings," "Pharmaceuticals, cosmetics, orthopedics, prosthetic devices and medical and dental supplies," "Architectural, drafting and artist supplies," "Ceramics and other similar products," and "Costume jewelry, novelties, buttons, toys, miscellaneous clothing, accessories and notions."

<sup>282</sup> Consolidated "Battery Rebuilding Shop," "Atmospheric Gas Production Plant," "Lumbermill, Sawmill, Pulpmill," "Tannery," "Asphalt and concrete ready mix plant," "Construction Components and Concrete Mix Plant", and "Bottling and Distribution Plant".

<sup>283</sup> Renamed from "Mining, Dredging, Loading & Hauling of Sand, Dirt, Gravel or Other Aggregate." Removed as a C use in the O-3 district as inconsistent with the proposed use of that zoning district to preserve parks and open space.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT   | R-1A | R-1B  | R-1C  | R-2, R-1M | R-3   | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |       |       |       |       | U     | T-2, M-1 | M-2   | A-1 | A-1 | A-2 |                        |
|---|------|-------|-------|-----------|-------|---|-------|-------|-------|-------|-------|----------|-------|-----|-----|-----|------------------------|
| PROPOSED ZONING DISTRICT  | R-1A | R-1B  | R-1C  | R-2       | R-3   | MX-1  | MX-2  | MX-3  | MX-4  | MX-5  | MX-U  | I-1      | I-2   | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS |
| Storage, Wholesale, and Warehousing <sup>284</sup>              |      |       |       |           |       |   |       |       |       |       |       |          |       |     |     |     |                        |
| Bulk Storage of Flammable or Dangerous Materials <sup>285</sup> |      |       |       |           |       |   |       |       |       |       |       |          | C     |     |     |     |                        |
| Outdoor Storage   |      |       |       |           |       |   | C*    |       |       |       | A*    | A*       | A*    |     |     |     | 11-03-03.5.D           |
| Self-Service Storage  |      |       |       |           |       |   | A*    | A*    |       |       |       | A*       | A*    |     |     |     | 11-03-03.5.E           |
| Trucking Terminal   |      |       |       |           |       |   |       |       |       |       |       | A*       | A*    |     |     |     | 11-03-03.5.F           |
| Wholesale or Warehouse  |      |       |       |           |       |   | C*    |       |       | C*    | A*    | A*       | A*    |     |     |     | 11-03-03.5.G           |
| Utility Uses  |      |       |       |           |       |   |       |       |       |       |       |          |       |     |     |     |                        |
| Power Plant   |      |       |       |           |       |   |       |       |       |       | C     | C        | C     |     |     |     |                        |
| Utility Facility, Minor <sup>286</sup>                          | C*   | A*/C* | A*/C* | A*/C*     | A*/C* | A*/C*   | A*/C* | A*/C* | A*/C* | A*/C* | A*/C* | A*/C*    | A*/C* | C*  | C*  | C*  | 11-03-03.5.H           |
| Utility Facility, Major   |      |       |       |           |       |   |       |       |       |       | A     |          | C     |     |     |     |                        |

<sup>284</sup> Removed "Storage of Flammable Liquids or Gases Necessary to the Processes on the Premises" and added to the definition of Heavy and Light Industry. Removed "Grain Elevator" as an allowed use.

<sup>285</sup> Renamed from "Bulk Storage of Corrosive, Acid, Alkali, Explosive or Flammable Materials or Products."

<sup>286</sup> Consolidated "Utility Facility, Minor" and both "public Service Poles" uses. Use-Specific Standards added to require a Conditional Use Permit for poles over 85 feet.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

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ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                      | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT                     | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| Waste and Salvage                            |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| Composting Facility                          |      |      |      |           |     |   |      |      |      |      | A*   | C*       | C*  |     |     |     | 11-03-03.5.I                 |
| Junkyard, Vehicle Salvage <sup>287</sup>     |      |      |      |           |     |   |      |      |      |      |      | C*       | C*  |     |     |     | 11-03-03.5.J                 |
| Recycling Collection Facility                |      | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  |     |     |     | 11-03-03.5.K                 |
| Sanitary Landfill                            |      |      |      |           |     |   |      |      |      |      |      | A        | A   |     |     |     |                              |
| Solid Waste Transfer Facility <sup>288</sup> |      |      |      |           |     |   |      |      |      |      |      | A*       | A*  |     |     |     | 11-03-03.5.L                 |
| Accessory Uses <sup>289</sup>                |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| Beekeeping <sup>290</sup>                    | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.6.A<br>11-03-03.6.B |

<sup>287</sup> Renamed from "Junkyard, Vehicle Wrecking".

<sup>288</sup> Use allowances based on Sanitary Landfill.

<sup>289</sup> Removed uses related to accessory structures. Removed "Recreation Vehicle Parking, Short-Term," Accessory Indoor Storage of Corrosive, Acid, Alkali, Explosive or Flammable Materials or Products," and "Accessory Retail Sales and Service Related to the Principal use." Accessory storage of dangerous materials addressed in the Use-Specific Standards for Light and Heavy Industry. Accessory retail sales and service added to the definition of Light and Heavy Industry.

<sup>290</sup> Carries forward 11-06-07.4.B but expanded to be allowed in all districts. Current footnote, "Beekeeping is a permitted accessory use to an Urban Farm in all districts" not carried forward as a Table Note and added to definition of Urban Farm.

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                                | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|--|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT                               | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| Drive-Through Facility <sup>291</sup>                  |      |      |      |           |     | ■   | A*   | ■    | ■    | ■    |      |          |     |     |     |     | 11-03-03.6.A<br>11-03-03.6.C |
| Electric Vehicle Charging Facility                     | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.6.A<br>11-03-03.6.D |
| Food Truck, Accessory                                  |      |      |      | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     | A*  |     |     | 11-03-03.6.A<br>11-03-03.6.D |
| Home Occupation, Family Daycare Home <sup>292</sup>    | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     | A*  | 11-03-03.6.A<br>11-03-03.3.A |
| Home Occupation, Group Daycare Facility <sup>293</sup> | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   |          |     |     |     | C*  | 11-03-03.6.A<br>11-03-03.3.A |
| Home Occupation, Other <sup>294</sup>                  | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     | A*  | 11-03-03.6.A<br>11-03-03.6.F |
| Livestock and Animals                                  | A*   | A*   | A*   | A*        | A*  |   |      |      |      |      |      |          |     | A*  | A*  | A*  | 11-03-03.6.A<br>11-03-03.6.G |

<sup>291</sup> Renamed from "Drive-Up Establishment" and relocated from Retail Uses to Accessory Uses.

<sup>292</sup> Renamed from "Child Care Home" to align with §39-1102 of the Idaho Statutes.

<sup>293</sup> Renamed from "Group Child Care Home" to align with §39-1102 of the Idaho Statutes.

<sup>294</sup> Replaced "Administrative Home Occupation."

**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE S = SPECIAL ALLOWED USE C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT                   | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, T-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|---|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT                  | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| Outdoor Storage, Accessory                |      |      |      |           |     |   | A*   |      |      |      | C*   | A*       | A*  |     |     |     | 11-03-03.6.A<br>11-03-03.6.H |
| Renewable Energy Facility, Accessory      | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | C*  | C*  | C*  | 11-03-03.6.A<br>11-03-03.6.I |
| Sidewalk Café                             |      |      |      | A*        | A*  | A*  | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.6.A<br>11-03-03.6.J |
| Unlisted Uses Accessory to an Allowed Use | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.6.A<br>11-03-03.6.K |
| <b>Temporary Uses<sup>295</sup></b>       |      |      |      |           |     |   |      |      |      |      |      |          |     |     |     |     |                              |
| Construction Office                       | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.7.A<br>11-03-03.7.B |
| Mobile Food Truck                         | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.7.A<br>11-03-03.7.C |
| Safety Facility                           |      |      |      |           |     |   | A*   | A*   | A*   | A*   |      |          |     |     |     |     | 11-03-03.7.A                 |
| Sales and Leasing Office <sup>296</sup>   | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  |     |     |     | 11-03-03.7.A<br>11-03-03.7.D |

<sup>295</sup> Deleted "Subdivision Office, Temporary," and "Temporary Voting Place."

<sup>296</sup> Removed from O-3 district as unnecessary in a park and open space district.



**TABLE 11-03.1: TABLE OF ALLOWED USES<sup>244</sup>**

A = ALLOWED USE    S = SPECIAL ALLOWED USE    C = CONDITIONAL USE

\* = USE-SPECIFIC STANDARDS APPLY    + = INCENTIVE 11-04-03.7.D(1) ARE AVAILABLE

ADDITIONAL ADAPTIVE REUSE INCENTIVES IN 11-04-03.7.D(5) ARE AVAILABLE

A\*/C\* = CONDITIONAL USE PERMIT MAY BE REQUIRED IN SOME CIRCUMSTANCES PER USE-SPECIFIC STANDARDS

| CURRENT ZONING DISTRICT  | R-1A | R-1B | R-1C | R-2, R-1M | R-3 | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, I-1 (SEE 11.02.01.1) |      |      |      |      | U    | T-2, M-1 | M-2 | A-1 | A-1 | A-2 |                              |
|--------------------------|------|------|------|-----------|-----|---|------|------|------|------|------|----------|-----|-----|-----|-----|------------------------------|
| PROPOSED ZONING DISTRICT | R-1A | R-1B | R-1C | R-2       | R-3 | MX-1  | MX-2 | MX-3 | MX-4 | MX-5 | MX-U | I-1      | I-2 | O-1 | O-2 | O-3 | USE-SPECIFIC STANDARDS       |
| Seasonal Sales           | A*   | A*   | A*   | A*        | A*  | A*  | A*   | A*   | A*   | A*   | A*   | A*       | A*  | A*  | A*  | A*  | 11-03-03.7.A<br>11-03-03.7.E |

## 11-03-03. Use-Specific Standards

### 1. General Standards

#### A. Cross-References in Table of Allowed Uses

The Use-Specific Standards listed in this Section 11-03-03 apply to those uses listed on the same line of Table 11-03.1, regardless of whether those uses are shown as allowed, conditional, accessory, or temporary uses. These Use-Specific Standards cannot be modified through the Conditional Use Permit process in Section 11-05-05.3.L, but relief may be granted through the Variance process in Section 11-05-05.3.L.

#### B. Resolution of Conflicting Standards

If there is a conflict between these Use-Specific Standards and the requirements in Chapter 11-04, *Development and Design Standards*, these Use-Specific Standards shall apply, unless otherwise noted.

### 2. Residential Uses

#### A. General Standards

##### (1) Housing Variety in Multi-Building Developments on a Single Parcel<sup>297</sup>

Except in the MX-5 zoning district, new developments with multiple residential units on parcels between two and four acres platted and constructed after the Effective Date shall incorporate at least two housing types. Projects on more than four acres require at least three housing types. Housing types include:<sup>298</sup>

- (a) Single-Family Detached.
- (b) Single-Family Attached.
- (c) Duplex.
- (d) Triplex.
- (e) Fourplex.
- (f) Multifamily.
- (g) An alternative housing type as approved by the Planning Director.
- (h) A distinct building model may be provided as a substitute for one of the required housing types. A distinct building model can be easily distinguished from others through the use of both of the following design features:
  - i. A variation in length and footprint of 30 percent or more; or

<sup>297</sup> Relocated current 11-06-03.2.C. from Multifamily Dwelling standards since it applies to all parcels above two acres with multiple residential units .

<sup>298</sup> Revised to exclude the MX-5 zoning district. Clarified that these standards are applied to new development since applying them to redevelopment would be challenging and likely prohibitive,

- ii. A distinct variation in color and materials.

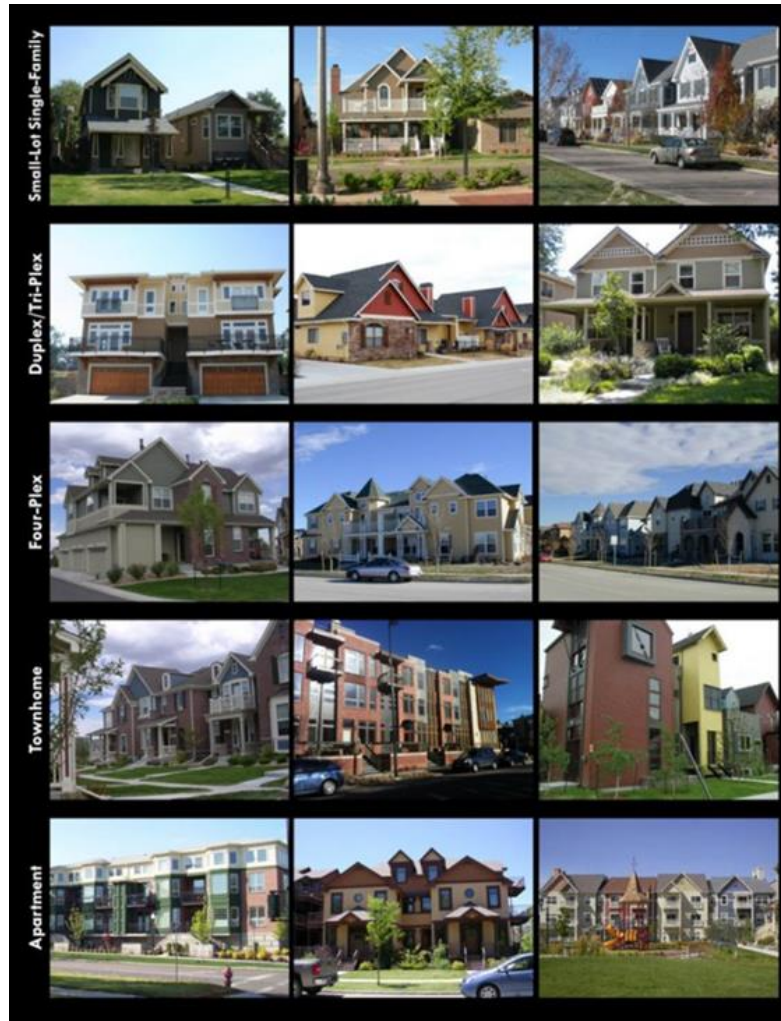


Figure 3-1. Housing Type Examples

## (2) Block Level Mix of Housing Types

No one housing type shall occupy more than 80 percent of any block face or street frontage exceeding 500 feet in length. Single-Family Detached Dwellings are exempt from this requirement.

### B. Accessory Dwelling Unit (ADU)<sup>299</sup>

- (1) In the Residential zoning districts, minimum lot area and maximum density standards shall not apply to new Accessory Dwelling Units.<sup>300</sup>
- (2) The Accessory Dwelling Unit shall not be larger than 700 square feet and shall not have more than two bedrooms.<sup>301</sup>

<sup>299</sup> Current Section 11-06-03.1.A unless otherwise noted. Deleted current 11-06-03.1.A(6) requiring proof of occupancy of the premises. Removed requirement for ADU to be accessory to a single-family structure and expanded to include all forms of primary residential uses. Removed requirement to notify adjacent property owners of an applicant's intent to establish an ADU. Removed purpose statement from current Section 11-06-03.1.A. Purpose statements are not typically included in Use-Specific Standards because they are not regulatory.

<sup>300</sup> Added in Consolidated Draft for internal consistency.

<sup>301</sup> Deleted maximum size limitation as the smaller of 700 feet or 10 percent of the lot area and added a two bedroom maximum.

- (3) Only one ADU is permitted on each lot where an ADU is permitted.<sup>302</sup>
- (4) The ADU shall be created through one of the following:
  - (a) Internal conversion of an existing living area, basement, or attic;<sup>303</sup>
  - (b) An addition to the principal dwelling unit;
  - (c) An addition to a detached accessory structure ;
  - (d) Construction of a new Single-Family Detached Dwelling with an internal or detached ADU;
  - (e) Construction of a detached ADU; or
  - (f) Conversion of an existing detached accessory structure that does not reduce off-street parking below the minimum required for that lot.<sup>304</sup>
- (5) The Accessory Dwelling Unit shall meet all of the dimensional requirements of the underlying zoning district as well as the provisions of the International Building Code.
- (6) The design of the Accessory Dwelling Unit shall be compatible with the existing neighborhood by taking into account height, bulk, and site location, and incorporating materials, colors, and a design motif that is compatible with and complements the architectural theme and style of the principal dwelling unit. The primary and the Accessory Dwelling Units shall be designed to portray the form<sup>305</sup> of a single-family dwelling. Only one entrance to the structure may be located on the front building elevation of the house unless multiple entrances are already in existence.
- (7) One full-size parking space shall be provided for ADUs with two bedrooms, in addition to those required for the principal dwelling(s), and shall meet the following:<sup>306</sup>
  - (a) The additional parking space shall not be a parallel space located on any portion of the lot abutting a public or private street or alley.
  - (b) The parking space may be provided through unrestricted on-street parking areas abutting the lot containing the ADU.
- (8) Ongoing owner occupancy of either the primary or the Accessory Dwelling Unit is required and shall be enforced by recording a deed restriction to that effect with the County Recorder. A temporary waiver of this requirement may be granted by the Planning Director in the case of a documented need for the owner-occupant to leave the premises for up to one year due to employment, illness, or other circumstances.
- (9) Conditions of approval, as determined by the Planning Director, shall be filed for record with the County Recorder as deed restrictions within 30 days of approval of the Accessory Dwelling Unit. Evidence of such filing shall be submitted to the Planning Director within 30 days of approval.
- (10) Impact fees for Accessory Dwelling Units shall be assessed at a portion of the standard single-family residential fee as determined by the applicable agency.

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<sup>302</sup> New.

<sup>303</sup> Deleted "Conversion of a garage is not permitted unless required parking can be sited legally elsewhere on the property."

<sup>304</sup> Language added to clarify that garages can be converted if required parking is provided elsewhere on site in compliance with the parking standards.

<sup>305</sup> Replaced "character."

<sup>306</sup> (a) and (b) are new. Replaces current 11-06-03.1.A.(5). Deleted ability to construct a compact space.

**C. Dwelling, Single-Family Detached<sup>307</sup>**

~~(1) If an application for a Single-Family Detached Dwelling is received for a location in the R-1B or R-1C where three to 12 dwelling units could be constructed pursuant to Section 11-04-03.7.D(2), the property owner shall be required to obtain a Conditional Use Permit pursuant to Section 11-05-05.3.B.~~

~~(2)~~ In the R-3, MX-1, MX-2, MX-3, MX-4 and MX-5 zoning districts, Single-Family Detached Dwellings are only permitted if a Building Permit for the dwelling was issued before the Effective Date.

**D. Dwelling, Cottage Village<sup>308</sup>**

(1) This use shall not be located within 400 feet of another Cottage Village, measured at the closest points on the property boundaries.<sup>309</sup>

(2) The maximum size of each Cottage Dwelling is 1,000 square feet of gross floor area.

(3) The maximum density shall be no more than 15,000 square feet of residential gross floor area per acre of project site area.

(4) A shared private common space containing at least 10 percent of the project area shall be provided.

(5) A shared facility for communal cooking, dining, and other activities containing no more than 2,000 square feet may be provided, and shall not count against the maximum density limits in Subsection (3) above.

(6) Individual Cottage Dwelling lots or portions of the project land shall not be subdivided for sale.

(7) Lot and setback requirements for the base zoning district shall apply to the project site as a whole, but not to individual Cottage Dwelling sites.

(8) Each project site shall maintain a vegetated buffer meeting the standards of Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*, as applicable to Multifamily Dwellings, along each side and rear lot line, and no portion of any primary or accessory structure may be located in that buffer area.

(9) All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3) *Assured Water Supply*.<sup>310</sup>

**E. Dwelling, Single-Family Attached<sup>311</sup>**

**(1) Orientation of Individual Dwelling Units<sup>312</sup>**

The front door of each dwelling unit shall face a public or private street meeting City or the Ada County Highway District standards, or a designated open space for use by residents and guests. Two rows of Single-Family Attached Dwelling units shall not face each other across an area used for vehicle parking or circulation.

<sup>307</sup> New. New Single-Family Detached homes are generally not permitted in multifamily and mixed-use districts. This provision allows existing homes to be treated as conforming uses, while prohibiting the construction of new low-density homes in districts designed to accommodate higher densities.

<sup>308</sup> New standards for a new use.

<sup>309</sup> Dimension revised from 1,320 feet in Consolidated Draft.

<sup>310</sup> New.

<sup>311</sup> Carried forward current Section 11-07-06.4, except as noted. Site orientation content was moved to the new definition of this use. Prohibition on location of required open space in rear and side setback areas was deleted as unusual, and to add flexibility.

<sup>312</sup> New.

**(2) Architectural Elements**

Each attached unit shall have a facade or roof treatment that distinguishes it from the other attached units. Architectural treatments used may include individual pitched roofs, modulated facades, porches, different siding materials and colors, dormers and pop-outs, or vertical windows.

**(3) Open Space**

Each unit shall have an individual on-site (backyard/courtyard) or common area open space equal to at least 10 percent of the lot area. Required open space shall be at least 12 feet wide and shall not be located within a required setback areas. Common area open space shall not be closer than five feet to a dwelling unit opening. Above-ground decks and balconies shall not constitute required open space.

**(4) Landscaping**

One deciduous tree of at least two inch caliper shall be planted in front of each unit.

**(5) Assured Water Supply<sup>313</sup>**

All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3), *Assured Water Supply*.

**(6) Use-Specific Form Standards<sup>314</sup>**

In the MX-1 district, this use shall comply with the Use-Specific Form Standards in Section 11-04-09.5.B.

**F. Dwelling, Live/Work<sup>315</sup>**

- (1)** The residential living space shall be occupied by the owner of the commercial or manufacturing activity or the owners' employee, including that person's household.
- (2)** In the R-1A, R-1B, and R-1C zoning districts, the commercial activity area shall not exceed 50 percent of the gross floor area of the Live/Work unit or 1,000 square feet, whichever is smaller.
- (3)** In the R-2 and R-3 zoning districts, the commercial activity area shall not exceed 50 percent of the gross floor area of the Live/Work unit or 2,000 square feet, whichever is smaller.
- (4)** Signs are limited to a maximum of two non-illuminated wall or window signs that shall not exceed six square feet in total combined area.
- (5)** The work activities shall not create adverse noise or operational impacts on adjacent residential properties.
- (6)** All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3) *Assured Water Supply*.<sup>316</sup>

**G. Dwelling, Duplex, Triplex, or Fourplex<sup>317</sup>**

If located on property in the R-1A, R-1B, R-1C, or R-2 zoning districts, the use shall comply with the following standards:

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<sup>313</sup> New.

<sup>314</sup> Added in Consolidated Draft.

<sup>315</sup> New.

<sup>316</sup> New.

<sup>317</sup> Carried forward current Section 11-06-03.1.B. and applied to triplexes and fourplexes. Removed applicability in the BC-O district. Removed ability to park off the alley in the side and rear setbacks within two feet of the side property lines when a solid fence is

**(1) Minimum Lot Area and Maximum Density**

In the Residential zoning districts, minimum lot area and maximum density standards shall not apply to new Duplex Dwellings.<sup>318</sup>

**(2) Maximum Lot Coverage**

Floor area shall not exceed 55 percent of the total lot area. Enclosed garage space does not count toward floor area.

**(3) Setbacks**

Setbacks are as required by the zoning district except covered front porches of a minimum five foot depth may have a 10 foot front setback.

**(4) Open Space**

Each unit shall have a minimum of 375 square feet of private open space located in the rear yard. This open space shall have a minimum dimension of 15 feet in length or width and may include the required setbacks, but shall not include driveways or parking areas. Only those areas on the lot having minimum width and length dimensions of five feet shall be used to comply with the open space standard. A minimum of 30 percent of the required open space shall consist of permeable ground surface with landscaping.

**(5) Landscaped Areas**

Any Duplex, Triplex, or Fourplex Dwelling shall be subject to the landscaping requirements set forth in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*, excluding side yards that may be finished with decorative gravel, provided they are fenced and screened from street view.<sup>319</sup>

**(6) Driveways**

Individual driveways in the front setback shall not exceed a width of 20 feet, and shall be separated from other driveways by a minimum of seven feet of landscaped area.

**(7) Right-Of-Way Improvements<sup>320</sup>**

- (a) All new dwellings shall provide a paved driveway apron that extends to the edge of street pavement of the roadway or an alley apron, if applicable.
- (b) All new dwellings shall provide curb and gutter except that waivers or variations on some or all this requirement may be granted by the Planning Director based upon site-specific conditions such as the lack of adjacent improvements and/or documented drainage problems that might result from the improvement of the roadway.

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provided. Removed notification requirements for adjacent property owners and occupants. Procedure for reviewing developments on contiguous lots deleted from this section because procedures are addressed in Chapter 11-05, Administration and Procedures. Requirement for demonstration of assured water supply for Fourplexes deleted in Consolidated Draft for internal consistency as to how residential projects of four or fewer units are treated.

<sup>318</sup> Added in Consolidated Draft for internal consistency.

<sup>319</sup> Did not carry forward language in 11-06-03.B(e) related to general landscaping materials in the front and street side setback, since that is covered in the Landscaping section of the Development and Design Standards. Allowance to use decorative gravel in side yard carried forward.

<sup>320</sup> Relocated current 11-06-03.B(1)(g)i. to Street Frontage Landscaping/Off-Street Parking and Loading and iii. to Access and Connectivity. ACHD-approved adjustments for insufficient roadway width removed from this Section and made generally applicable.



**(8) Design<sup>321</sup>**

- (a) All street-facing facades shall include architectural treatments to provide visual interest. Architectural treatments used to achieve this may include but are not limited to dormers, bay windows, vertical windows, exterior window treatments, varying roof pitches, facade modulation, and a variety of colors, materials, and textures. Alternative approaches to facade design may include either creating the distinct appearance of two architecturally distinguishable dwelling units, or creating a more unified design that replicates the appearance of one Single-Family Detached Dwelling.
- (b) At least 15 percent of the area of street-facing facades shall be windows or doors. The calculation includes the area of all street-facing windows and entrance doors that are within a 45 degree angle of the street. Garage doors are not included in the 15 percent calculation.
- (c) The length of the garage wall or combination of garage walls facing the street shall not exceed 50 percent of the total length of the facade. Garages that are set back a minimum of five feet further than the street-facing wall of the dwelling unit may be up to 60 percent of the total length of the facade. Walls of side entry garages that use windows and other architectural means to provide visual interest are not included in this calculation.
- (d) On interior lots at least one unit shall have a main entrance with a door facing the street or at an angle of up to 45 degrees from the street. The main entrance shall include a covered porch that is a minimum of 25 square feet. If both of the units have an entrance facing the street, or more than one garage door is facing the street, the units shall be modulated by a minimum of four feet.
- (e) On corner lots each street facade shall have a main entrance with a door facing the street or at an angle of up to 45 degrees from the street. The main entrance shall include a covered porch that is a minimum of 25 square feet in area. Duplex Dwellings located on lots at the corner of two local streets shall not have more than two parking spaces accessed from each street.
- (f) Balconies shall be located in areas that will cause minimal interference with the privacy of neighboring properties.
- (g) Dwelling units shall not be arranged in two rows oriented perpendicular to the street with ground floor or second floor unit entry doors facing towards an unenclosed passageway or hallway. If dwelling units are arranged in two rows oriented perpendicular to the street, any passageway between the two rows of units shall be fully enclosed, and the primary pedestrian entrances of the ground floor units must face the street.<sup>322</sup>
- (h) Two-story structures shall use one of the following methods to break up the building mass and provide visual interest to the side elevations:

<sup>321</sup> Deleted current Section 11-06-03.B(h)I and (xi).

<sup>322</sup> New.



- i. The second story sidewalls shall have a minimum three foot offset from the first story sidewalls. The second story shall be located furthest away from the side property lines; or
- ii. The building shall be set back eight feet from the interior side property line, with bay windows, pop-outs or other architectural appurtenances allowed at the five foot setback line, except that in the R-1A and R-1B zoning districts, the building shall be set back 13 feet from the interior side property line, with bay windows, pop-outs, or other architectural appurtenances allowed at the 10 foot setback line.



Figure 3-2. Two-Story Duplex

- (i) If less than one and one-half-story structures exist on both sides of the subject lot, the structure shall meet the requirements of Section 11-04-03.3, *Residential Small Lots*.
  - (j) Second story windows shall be designed to limit impact on the privacy of neighboring properties. This may include but is not limited to frosted glass or clerestory windows.<sup>323</sup> This requirement does not supersede any Building Code requirements for windows for egress or natural light.
  - (k) Structures on Small Lots shall be subject to additional criteria per Section 11-04-03.3, *Residential Small Lots*.
- (9) Use-Specific Form Standards<sup>324</sup>**
- In the MX-1 and MX-3 districts, this use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B or 11-04-09.5.C, as applicable to the zoning district in which the property is located.
- (10) In the R-1B and R-1C Districts**

If an application for a Duplex Dwelling is received for a location in the R-1B or R-1C where three to 12 dwelling units could be constructed pursuant to Section 11-04-03.7.D(2), the property owner shall be required to obtain a Conditional Use Permit pursuant to Section 11-05-05.3.B.<sup>325</sup>

<sup>323</sup> New.

<sup>324</sup> Added in Consolidated Draft.

<sup>325</sup> New.

**H. Dwelling, Multifamily<sup>326</sup>**

**(1) Standards in the R-1B, R-1C, R-2, R-3, MX-1, and MX-2 Zoning District<sup>327</sup>**

- (a) The minimum usable open space or recreational space requirement shall be equal to 30 percent of the land area occupied by residential structures. For the purpose of this Section, usable open space or recreational space shall include landscaped areas, court yards, balconies, patios, sun decks, pedestrian walkways, playground areas, swimming pools, and all other exterior or interior recreational areas. Such areas shall be readily accessible to the occupants of the building. Usable open space or recreational space shall not include driveways, parking areas, or loading areas. The open space or recreational space requirement may be reduced for projects that about open space or recreational facilities.
- (b) Building and site design shall provide for a transition into the surrounding neighborhood to ensure compatibility. Factors to be considered are setbacks, building height, building materials, bulk, roof design, parking area locations, landscaped area locations, and other factors necessary to ensure adequate transition.
- (c) The pedestrian circulation system shall be integrated into the surrounding neighborhood and shall provide connections from dwellings to parking areas, open space, or recreational facilities and any shared facilities. Sidewalks shall be of adequate width to accommodate the expected pedestrian traffic in high use areas.
- (d) Natural features and other potential site amenities should be retained and incorporated into the design.
- (e) Primary buildings connected by a breezeway, covered hallway, or similar protected walkway shall be treated as separate buildings on separate zoning lots for setback or spacing purposes.
- (f) Fire escapes and unenclosed exterior stairs that provide access to an upper level are prohibited on any street-facing building facade.<sup>328</sup>
- (g) If individual exterior entrances to dwelling units are not provided, an enclosed primary building entrance is required.<sup>329</sup>
- (h) At least two of the following amenities shall be provided in projects greater than one acre in size:
  - i. Energy conservation measures such as solar energy, heating, or water heating capacity or water conservation measures such as the use of drought-tolerant plants;
  - ii. Private recreational facility, such as a swimming pool, tennis court, playground, or picnic area, in scale with the development; and/or

<sup>326</sup> Current standards in 11-06-03.2 (Multifamily uses) have been significantly simplified. The standards for high rise housing near Boise State University have been removed because they have not been used. Standards for I-1 district deleted in Consolidated Draft, since the use is no longer permitted in that district.

<sup>327</sup> Standards revised to apply in the R-1B, R-1C, R-2, MX-1, and MX-2 zoning districts. Similar topics in the MX-5 district are addressed in the Downtown Design Standards and Guidelines. Deleted current 11-06-03.2.G(1). Procedure for approval not carried forward in this Section because procedures are addressed in Chapter 11-05, Administration and Procedures.

<sup>328</sup> New.

<sup>329</sup> New.

- iii. Landscaped open space of at least ten percent of gross development area. Setbacks are not included in the calculation of the gross area. The open space shall be designed so as to benefit all residents.

**(2) Standards in the MX-3 and MX-4 Zoning District<sup>330</sup>**

In addition to the standards set forth in paragraphs (1) and (2) above, Multifamily Dwellings in the MX-3 and MX-4 zoning district shall comply with the following:

**(a) Building Massing**

Each building facade shall have a visibly distinct top, middle, and base that are distinguished from one another through the use of one or more of the following techniques:

- i. Wall openings that are larger at the base or on the second floor and decrease in height towards the top of the building;
- ii. Materials that appear heavier at the base of the building to anchor the building to the ground;
- iii. Prominent building entries and window designs on the ground level of the building to add visual interest and contribute to the pedestrian scale; and/or
- iv. Distinctive roofline treatment on the top level that adds visual interest from all observable angles.

**(b) Multi-Building Developments**

For Multifamily Dwelling developments with three or more buildings, the buildings shall be arranged using one or more of the following techniques:

- i. Organize units around a central courtyard that maintains a consistent side yard setback between units along the street frontage;
- ii. Locate the buildings on the corner of an adjacent street intersection or entry point to the development to frame the corner;
- iii. Provide common gathering spaces between buildings; and/or
- iv. Other site improvements as approved by the Planning Director.

**(3) Assured Water Supply**

All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3) *Assured Water Supply*.<sup>331</sup>

**(4) Use-Specific Form Standards<sup>332</sup>**

In the MX-1, MX-3, MX-4, and MX-5 districts, this use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.C, 11-04-09.5.D, or 11-04-09.5.E as applicable to the zoning district in which the property is located.

**I. Manufactured Home**

A Manufactured Home shall comply with the following architectural and placement standards:

<sup>330</sup> New.

<sup>331</sup> New.

<sup>332</sup> Added in Consolidated Draft.

- (1) Except in the R-1A zoning district, it shall be multi-sectional and enclose a space of not less than 1,000 square feet.<sup>333</sup>
- (2) It shall be permanently affixed to the ground in accordance with the manufacturer's specifications with the running gear and towing hitch removed and set upon a foundation base having an anchoring system that is completely concealed under the structure.
- (3) It shall be placed on a foundation base with the finished floor area of the home not more than 12 inches above grade or 24 inches above grade if the home is over a basement. Graded earth shall not be closer than six inches to the siding of the home.
- (4) It shall have a foundation fascia that is similar in appearance and durability to the masonry foundation or other foundation systems on Single-Family Detached Dwellings in the nearby area. The foundation fascia shall surround the entire perimeter of the structure and completely enclose the space between the siding and the finished grade.
- (5) It shall have exterior siding and roofing that in material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the city or that is comparable to the predominant material used on surrounding dwellings.
- (6) It shall have a pitched roof with a minimum pitch of two inches of rise to 12 inches of run (2:12).
- (7) If the majority of other residential structures on the same block have eaves, the Manufactured Home shall have an eave that projects a minimum of six inches along any wall that faces a street.<sup>334</sup>

**J. Manufactured Home Community<sup>335</sup>**

**(1) Improvement Requirements**

- (a) If the development is to be subdivided, streets shall be public and built in conformance with ACHD construction standards.
- (b) Utilities shall be installed underground.
- (c) Units within the Community shall be connected to a wet line sewer and a central water facility.
- (d) Public street lighting shall be designed, constructed, and dedicated to the City and shall comply with the requirements of the Public Works Department.
- (e) Provisions for drainage of the community and dwelling sites in the Manufactured Home Community shall comply with the requirements of the Stormwater Management Ordinance and be reviewed and approved by the Public Works Department.<sup>336</sup>
- (f) Subdivisions and conversions of land leased Manufactured Home Communities to subdivisions shall comply with the requirements of Section 11-04-04, *Subdivision Standards*.

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<sup>333</sup> The 1,000 square ft. minimum may be reduced to 400 square feet to accommodate Tiny Houses on individual lots.

<sup>334</sup> Text simplified.

<sup>335</sup> Deleted current 11-06-03.1.D(1)(g) requirement for additional buffering.

<sup>336</sup> Requirement for compliance with Stormwater Management Ordinance clarified.

**(2) Dwelling Unit Design Features<sup>337</sup>**

Each dwelling unit shall comply with the following standards:

- (a) It shall have a roof pitch of at least two inches of rise to 12 inches of run (2:12).
- (b) It shall have a foundation fascia that is similar in appearance and durability to the masonry foundation or other foundation systems on Single-Family Detached Dwellings in the nearby area. The foundation fascia shall surround the entire perimeter of the structure and completely enclose the space between the siding and the finished grade.
- (c) It shall have exterior siding and roofing that in material and appearance is similar to the exterior siding and roofing material commonly used on residential dwellings within the city or that is comparable to the predominant material used on surrounding dwellings.
- (d) The use of identical floor plans or unit designs on adjacent lots is prohibited.

**(3) Home Space and Lot Improvement Requirements**

**(a) Dimensions<sup>338</sup>**

Each individual space designated for a Manufactured Home shall be large enough to accommodate the dwelling, required parking, usable private open space, area for accessory storage units, perimeter building setbacks and building separation requirements.

**(b) Private Open Space**

A minimum of 400 square feet of usable private open space, being 15 feet wide at its narrowest dimension, shall be provided within each lot or home space's side or rear yard area. This requirement may be reduced to no less than 200 square feet if the difference is placed in common facilities provided for the Community as a whole.

**(c) Parking Spaces**

Residential parking spaces shall not be located further than 600 feet from the dwelling unit.

**(d) Perimeter Setback and Unit Spacing Requirements**

**i. Periphery Setbacks**

Front, side, and rear setbacks along the periphery of the development shall comply with those for the zoning district in which the development is located. Where development already exists at the periphery, the setbacks shall be matched. For example, side yards shall be provided adjacent to side yards, rear yards adjacent to rear yards, and front yards opposite front yards.

**ii. Internal Front and Street Side Yard**

Each Manufactured Home adjacent to a public or private street shall be set back a minimum of 10 feet from the street as measured from the back of sidewalk, or back of curb in cases where no sidewalks are planned. The front yard setbacks of adjacent units are required to vary by no less than three feet,

<sup>337</sup> Illustrative list of features replaced by more objective standards. Requirements that communities in the R1-M district comply with R-1M design standards were deleted as unnecessary.

<sup>338</sup> Application material requirements will appear in the city website.

**(e) Interior Side and Rear Yards**

In order to maximize yard area utility, side and rear yard setbacks may be zero feet, but adjacent Manufactured Homes shall be separated by a minimum of 10 feet. Detached accessory structures shall comply with the accessory structure setback standards in the zoning district where the property is located.

**(4) Assured Water Supply<sup>339</sup>**

All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3), *Assured Water Supply*.

**K. Assisted Living Facility, Continuing Care Retirement Facility, Convalescent or Nursing Home, Fraternity or Sorority House, Group Home, FHAA Large, and Temporary Housing, Large<sup>340</sup>**

In the zoning districts where these uses are listed as Allowed or Conditional Uses, these uses shall comply with those Use-Specific Standards, design standards, and other Code provisions applicable to Multifamily Dwelling units in the zoning district in which they are located.

**L. Dwelling, Co-Housing<sup>341</sup>**

- (1)** A shared private common space containing at least 10 percent of the project area shall be provided.
- (2)** A shared facility for communal cooking, dining, and other activities containing no more than 2,000 square feet may be provided.
- (3)** All projects containing five or more dwelling units shall comply with the standards in Section 11-04-04.5.B(3) *Assured Water Supply*.<sup>342</sup>

**M. Group Home, FHAA Small and Temporary Housing, Small<sup>343</sup>**

In all zoning districts where these uses are listed as Allowed or Conditional Uses, these uses shall comply with those Use-Specific Standards, design standards, and other Code provisions applicable to the type of dwelling unit structure they occupy (e.g. Single-Family Detached, Single-Family Attached, Duplex, Triplex, or Fourplex Dwellings) in the zoning district in which they are located.

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**3. Public, Institutional and Civic Uses**

**A. Adult or Child Daycare Uses<sup>344</sup>**

Adult or Child Daycare Facilities, Centers (Small and Large), Family Daycare Homes, and Group Daycare Facilities shall comply with the applicable standards below.

**(1) Standards for All Adult Daycare Uses**

Every Adult Daycare use shall:

- (a)** Provide adequate access to the facility for people with disabilities.

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<sup>339</sup> New.

<sup>340</sup> New.

<sup>341</sup> New standards for new use. Requirement to meet Multifamily landscaping standards deleted in Consolidated Draft; Co-housing Dwellings are subject to the applicable landscaping standards as the base housing form.

<sup>342</sup> New. Revised from four to five in Consolidated Draft for internal consistency.

<sup>343</sup> New.

<sup>344</sup> Carried forward current Section 11-06-04, unless otherwise noted.

- (b) If located on an arterial or collector street, provide for an on-site patron pick-up area designed to prevent vehicles from backing onto the street (backing into an alley is permissible).
- (c) Comply with the regulations where applicable by law or jurisdiction of the Fire Department and the health inspector.
- (d) Maintain any required licenses from the City or the State of Idaho in effect at all times.

**(2) Standards for All Child Daycare Uses <sup>345</sup>**

Every Child Daycare use shall:

- (a) Provide a minimum outdoor play area of 100 square feet per child on site. This area requirement may be waived or modified if appropriate open space with connecting public sidewalks or paths are located near the facility and that open space can be used by the children as a play area; or the program of the facility is such that the size of a group of children using the play area at any one time conforms to the 100 square feet per child criteria.
- (b) Provide a minimum of 35 square feet of indoor gross floor area per child.
- (c) Maintain a valid child care license from the City and the State of Idaho in effect at all times.
- (d) Comply with the regulations where applicable by law or jurisdiction of the Fire Department and the health inspector.
- (e) Provide adequate lot size for parking, child pick-up area, play area, screening, and setbacks. In the case of a Family Daycare Home, the Planning Director shall determine needed improvements.

**(3) Additional Criteria for All Home Occupation Daycare Uses**

Every Family Daycare Home and Group Daycare Facility shall meet the following standards:

- (a) The use shall not change the structural character of the dwelling.
- (b) A maximum of one employee is allowed.

**(4) Additional Criteria for Adult and Child Care Uses by Type**

In addition to the applicable criteria above, an Adult or Child Daycare use shall be subject to additional standards as indicated in Table 11-03.2.

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<sup>345</sup> Notification requirements have been removed to City's website.

**TABLE 11-03.2: ADDITIONAL CRITERIA FOR ADULT AND CHILD CARE USES BY TYPE**

| CRITERIA   | PRINCIPAL USES                                       |  |  | HOME OCCUPATION USES   |                        |
|--|--|--|--|--|------------------------|
|  | ADULT OR CHILD DAYCARE FACILITY                      | ADULT OR CHILD DAYCARE CENTER, SMALL   | ADULT OR CHILD DAYCARE CENTER, LARGE   | FAMILY DAYCARE HOME  | GROUP DAYCARE FACILITY |
| NUMBER OF ADULT OR CHILDREN ALLOWED  | 7-12   | 13-25  | ≥ 26   | ≤ 6  | 7-12                   |
| The use shall provide for an on-site child pick-up area designed to ease the flow of traffic and to prevent vehicles from backing onto the roadway (backing in an alley is permissible). | Applicable   |  |  | Applicable if located on a collector or arterial street  |                        |
| Allowable signage shall be non-illuminated and as indicated. The applicant's proposal for signage should be submitted and considered during the review process.                          | One 12 sq. ft. attached sign                         | One 12 sq. ft. attached sign   | As allowed by the applicable zoning district   | One 12 sq. ft. attached sign   |                        |
| Minimum parking to be provided shall be as indicated.  | 1 off-street space per employee                      | 1 off-street space per 10 children, with a minimum of 2 spaces (except the MX-5 zoning district where off-street parking is not required) <sup>346</sup> |  | 1 off-street space per employee  |                        |
| Facility location shall be as indicated.   | On the edge of a neighborhood and not in the center. |  | On a collector or arterial street; or if for school age children, within 300 ft. of the school grounds; or in a public assembly structure. | In the operator's principal residence and shall be incidental to the principal use of the dwelling as a residence. |                        |

### B. Cemetery or Mortuary<sup>347</sup>

In any Residential zoning district, this use shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a local residential street.

<sup>346</sup> Replaced language related to parking reduction districts with a reference to the MX-5 district for internal consistency in Consolidated Draft.

<sup>347</sup> New.



**C. Jail or Detention Facility<sup>348</sup>**

- (1) This use shall be located with direct access onto an arterial or collector street.
- (2) Site design and security measures shall ensure that the peace and safety of the surrounding area shall not be disturbed or impaired.

**D. School<sup>349</sup>**

This use shall comply with all requirements and recommendations of the Idaho Transportation Department and the Ada County Highway Department including but not limited to compliance with:

- (1) All requirements and recommendations in any land use master plan, school bus plan, pedestrian plan, or crossing guard plan applicable to the property; and
- (2) All requirements and recommendations related to:
  - (a) Access safety;
  - (b) Barriers between highways and school;
  - (c) Location of school zone;
  - (d) Need for flashing beacon;
  - (e) Need for traffic control signal;
  - (f) Anticipated future improvements;
  - (g) Speed on adjacent highways;
  - (h) Traffic volumes on adjacent highways;
  - (i) Effect upon the highway's level of service;
  - (j) Need for acceleration or deceleration lanes;
  - (k) Internal traffic circulation;
  - (l) Access control of adjacent highways;
  - (m) Required striping and signing modifications;
  - (n) Funding of highway improvements to accommodate development;
  - (o) Proposed highway projects in the vicinity; and
  - (p) Any other issues related to the operation and potential impacts of the use on public health, safety, and the surrounding area.

**E. University**

All changes of use or development where the building or building site is within 300 feet of a Residential zoning district shall require a Conditional Use Permit.<sup>350</sup>

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<sup>348</sup> New.

<sup>349</sup> Current standard expanded to apply to both public and private schools. Wording updated and revised to be more objective.

<sup>350</sup> Revised from "50 feet of the campus boundary."

#### 4. Commercial Uses<sup>351</sup>

##### A. Animal Day Care or Kennel<sup>352</sup>

- (1) Those parts of structures in which animals are boarded shall be fully enclosed, with solid core doors and no operable windows, and shall be sufficiently insulated so no unreasonable noise or odor can be detected off the premises.
- (2) All boarded animals shall be kept within a totally enclosed part of a structure between the hours of 10:00 p.m. and 6:00 a.m.
- (3) In the MX-5 zoning district, no outdoor animal areas are permitted.
- (4) In other zoning districts where this use is an Allowed or Conditional Use, any outdoor animal areas shall be located at least 150 feet from each abutting property, except where the abutting property is owned or occupied by the operator of the use.

##### B. Urban Farm<sup>353</sup>

###### (1) Setbacks

There are no setback requirements for garden plants. Accessory structures, fencing, and other miscellaneous improvements are subject to the dimensional standards of the zoning district.

###### (2) Maintenance

Dead plants, produce, and trash not to be used for composting or other garden functions shall be removed from the site in a timely manner.

###### (3) Equipment

The use of mechanical equipment is generally limited to that typically associated with home gardening. Larger equipment may be used on a limited basis for seasonal activities such as soil preparation or clean-up in the fall. The use of mechanical equipment is limited to daylight hours.

###### (4) Chemicals and Fertilizers

Chemicals, fertilizers, or other toxic materials shall not drain onto adjacent properties, into waterways, or onto public rights-of-way. Chemicals and other flammable materials shall be disposed of in accordance with federal and state requirements. If stored on site, they shall be kept in a locked structure when unattended.

###### (5) Contact Information

On vacant parcels, a non-illuminated sign displaying the name and contact information for the individual or agency responsible for the garden shall be provided. This sign shall not exceed six feet in height or 32 square feet in background area.

###### (6) Lighting

No overhead lighting is allowed, unless the lighting fixtures are within an enclosed structure, including greenhouses. All lighting shall comply with the standards in Section 11-04-010, *Exterior Lighting*.

<sup>351</sup> Current 11-06-04.4.A (standards for golf club houses) not carried forward.

<sup>352</sup> New.

<sup>353</sup> Application materials have been removed to City's website. Review process provisions were not carried forward; standard administrative approval procedures will apply.

**(7) Historic Districts**

Urban Farms located in a designated Historic District require a Certificate of Appropriateness.

**(8) Produce Distribution**

The pick-up and delivery of produce for the purpose of distribution to gardeners or those who have purchased shares of locally grown produce is allowed during daylight hours. Such activities shall not be considered retail sales.

**(9) Retail Sales**

In Residential zoning districts, retail sales may be allowed at Urban Farms upon approval of a Zoning Certificate. In addition to the standards listed above, the following criteria apply:

- (a)** Sales shall be limited primarily to produce grown on the premises. Other items that have been grown or raised within the City's Area of Impact may also be sold. These items shall not exceed 25 percent of total product on display.
- (b)** Display areas shall adhere to the setbacks of the zoning district and be located as close to the front property line as feasible
- (c)** The area used for the sale, display and storage of produce shall not exceed 500 square feet.
- (d)** Sales are limited to the hours of 6:00 a.m. to 10:00 p.m.<sup>354</sup>
- (e)** Installation of new on-site parking to support retail sales is prohibited.

**C. Wireless Communication Facilities<sup>355</sup>**

This section establishes standards for the placement of wireless communication facilities (WCFs) to minimize aesthetic impacts by regulating the height, location, site characteristics, and design. It shall apply to the placement of all new WCFs and the expansion or alteration of existing WCFs.

**(1) General Requirements**

Facilities shall not:

- (a)** Create adverse noise from generators or other accessory equipment.
- (b)** Create access or grading problems.
- (c)** Interfere with the safe operation of traffic control equipment.
- (d)** Interfere with sight lines or clear zones for transportation or pedestrians.
- (e)** Violate any applicable laws, codes, or regulations.
- (f)** The removal of private trees (limbs, branches, or the entire tree) is prohibited unless written approval is provided from the private property owner and submitted with an application. The removal of public trees (limbs, branches, or the entire tree) is prohibited unless written approval is provided by the City Forester. The removal, if approved, shall be completed by a tree service licensed by the City of Boise. WCFs that will disturb or impact existing landscaping or infrastructure maintained by the City within public rights-of-way shall comply with Section 7-7A-3. WCFs that disturb a

<sup>354</sup> Revised from 8:00a.m.-8:00 p.m. for internal consistency in Consolidated Draft.

<sup>355</sup> New standards as adopted in ZOA21-0004 on December 14, 2021.

tree shall also comply with Section 11-04-08.3.F(3), *Avoiding Interference with Utilities* and 11-04-08.8, *Tree Preservation* and may be required to comply with any other applicable ordinance or manual.<sup>356</sup>

- (g) Disturbance to private property landscaping, regardless of if it is located within a public easement, shall be repaired to its original state after installation of the facility is complete.

**(2) Application Not Required**

Subject to the design standards in Section 11-03-03.4.C(6)<sup>357</sup>, an application shall not be required for:

- (a) Routine maintenance;
- (b) The replacement of a facility or antenna with another facility or antenna of equal or lesser size or height; or
- (c) The installation, placement, maintenance, operation, or replacement of strand-mounted micro wireless facilities between existing utility poles; or
- (d) The installation of an attached Wireless Communication Facility as defined in Section 11-03-03.4.C(6).<sup>358</sup>

**(3) Use Allowances and Applications**

The WCF use allowances and application requirements are identified in Table 11-03.3<sup>359</sup>, below.

| TABLE 11-03.3: WIRELESS COMMUNICATION FACILITIES – ALLOWED, CONDITIONAL AND PROHIBITED USES BY ZONING DISTRICT |  |   |  |
|--|--|---|--|
| A = ALLOWED    A*=ADMINISTRATIVE REVIEW    C= CONDITIONAL USE PERMIT   |  |   |  |
|  |  | FREESTANDING WIRELESS COMMUNICATION FACILITY                |  |
| ZONING CATEGORY <sup>360</sup>   | ATTACHED WIRELESS COMMUNICATION FACILITY | MONOPOLE/STRUCTURE LESS THAN BASE HEIGHT OF ZONING DISTRICT | MONOPOLE/STRUCTURE GREATER THAN BASE HEIGHT OF ZONING DISTRICT |
| Residential Districts (R-1A, R-1B, R-1C, R-2, and R-3)   | A  | A*  | R-1 and R-2 zoning districts: Prohibited<br><br>R-3: C         |
| Mixed-Use Districts (MX-1, MX-2, MX-3, MX-4, MX-5, and MX-U)   | A  | A*  | C  |
| Industrial Districts (I-1, I-2 and I-3)  | A  | A*  | C  |

<sup>356</sup> Section references updated from 11-07-05.2(B)(8), Utilities and 11-07-05.2(F), Preservation of Existing Trees.

<sup>357</sup> Section reference updated from "Boise City Code Section 11-06-04.2(A)(6)."

<sup>358</sup> Section reference updated from "Section 11-06-04.2(A)(6)."

<sup>359</sup> Table reference updated from "Table 11-06.3."

<sup>360</sup> All zoning districts updated to be consistent with the new proposed zoning district lineup.

**TABLE 11-03.3: WIRELESS COMMUNICATION FACILITIES – ALLOWED, CONDITIONAL AND PROHIBITED USES BY ZONING DISTRICT**

**A = ALLOWED    A\*=ADMINISTRATIVE REVIEW    C= CONDITIONAL USE PERMIT**

| ZONING CATEGORY <sup>360</sup>                     | ATTACHED WIRELESS COMMUNICATION FACILITY | FREESTANDING WIRELESS COMMUNICATION FACILITY                |  |
|--|--|---|--|
|  |  | MONOPOLE/STRUCTURE LESS THAN BASE HEIGHT OF ZONING DISTRICT | MONOPOLE/STRUCTURE GREATER THAN BASE HEIGHT OF ZONING DISTRICT |
| Open Land/Industrial Districts (O-1, O-2, and O-3) | A  | A*  | Prohibited   |

**(4) Site Development Standards for Freestanding Wireless Communication Facilities Greater than Base Height of Zoning District**

The following shall apply to freestanding WCFs above the base zoning district height per Table 11-03.3<sup>361</sup>.

**(a) Setbacks**

Support towers that do not exceed the height limit of the zoning district must meet setback, landscaping and screening requirements. Support towers that exceed the height limit of the zoning district shall be set back from all property lines as required by that zoning district or by one foot for every 10 feet of total tower height, whichever is greater. For a WCF located within 300 feet of a residential zoning district or use, the minimum distance from the tower base to the nearest existing residential structure or building setback line shall not be less than the height of the tower.

**(b) Separation**

No closer than 1,000 feet to another freestanding WCF.

**(c) Height**

The height measurement of a WCF shall include the height of the structure including antenna attachments. WCFs exceeding the height limit of the zoning district may only be allowed by Conditional Use Permit as indicated in Table 11-03.3<sup>362</sup>.

**(d) Equipment Facilities**

All equipment shelters, cabinets, or on-ground ancillary equipment shall meet setback requirements.

**(e) Screening and Landscaping**

Facilities shall include a landscape buffer. The buffer shall consist of a landscape strip at least four feet wide outside the perimeter of the compound. A minimum of 50 percent of the plant materials shall be of an evergreen variety. The Director may reduce or waive landscaping requirements where the visual impact of the facility is minimal.

<sup>361</sup> Table reference updated from "Table 11-06.3."

<sup>362</sup> Table reference updated from "Table 11-06.3."

**(f) Color and Placement**

To the greatest extent possible, WCFs shall use materials, colors, textures, screening and landscaping that blend the facilities to the natural setting and the built environment (e.g. a monopine design or similar concealment). Any antennas and supporting equipment installed on a structure other than a tower shall use colors that are similar to the supporting structure and render the antennas and related equipment as unobtrusive as possible.

**(g) Lighting and Security**

Unless required by the Federal Aviation Administration (FAA) or the Federal Communications Commission (FCC), WCFs shall not be lighted. Equipment shelters may use security lighting that is compatible with the surrounding neighborhood and confined to the boundaries of the site. Where a WCF is required to meet FAA paint or lighting regulations, the distance between the WCF and any residential zoning district or use or any historic district shall not be less than one-fourth of a mile.

**(h) Advertising**

No advertising or display shall be located on any antenna or support structure.

**(i) Discontinuation of Use**

Any WCF that is no longer in use shall be reported immediately by the property owner or service provider to the Director. Discontinued facilities shall be removed within six months and the site restored to its pre-existing condition.

**(j) Gateway Streets**

Lattice towers and WCF poles that exceed the base zoning district height limit are prohibited within 100 feet of:

- i. Capitol Boulevard.
- ii. Vista Avenue from I-84 to Capitol Boulevard.
- iii. Broadway Avenue from I-84 to Warm Springs Avenue.
- iv. State Street from the State Capitol to State Highway 55.
- v. Myrtle Street.
- vi. Front Street.
- vii. Federal Way from Capitol Boulevard to Bergeson Street.
- viii. Warm Springs Avenue.
- ix. Park Center Boulevard.

**(5) Site Development Standards for Freestanding Wireless Communication Facility Less than Base Height of Zoning District**

The following shall apply to freestanding WCFs less than the base zoning district height per Table 11-03.3<sup>363</sup>:

**(a) Design Criteria**

The WCF complies with the WCF design standards in Section 11-03-03.4.C(6)(a).<sup>364</sup>

<sup>363</sup> Table reference updated from "Table 11-06.3."

<sup>364</sup> Section reference updated from 11-06-04.2(A)(6)(a).

**(b) Separation**

A freestanding WCF shall be no closer than 500 feet to another freestanding WCF.

**(c) Dual Purpose**

The pole shall allow for a Boise City Public Works approved streetlight or co-location of another WCF provider or utility service.

**(d) Ground Equipment**

All equipment not installed on or inside the pole shall be located underground, flush to the ground, within three feet of the utility pole.

**(e) Placement**

The freestanding WCF shall not interfere with clear vision triangles or pedestrian access.

**(f) Setback**

In residential zoning districts, freestanding WCFs shall be no closer than 20 feet to a dwelling.

**(g) Options to Co-locate**

The applicant shall demonstrate that all appropriate co-location options (including publicly owned utility poles, privately owned structures, poles, rooftops and poles within easements) within a 500 foot radius are technically incompatible for co-location.

**(h) Notification**

Notification of the adjacent property owners and occupants, including properties across streets and alleys, shall be submitted with the application, stating the adjacent owners and occupants have been notified of the applicant's intent to install a freestanding wireless communication facility, that any disturbance to the site will be repaired to its original state, and the applicant's contact information. Certified mail is an acceptable means of notifying adjacent owners and occupants.

**(6) Design Standards for Attached Wireless Communication Facilities**

The following shall apply to attached WCFs per Table 11-03.3<sup>365</sup>:

**(a) General Criteria**

The total volume of antennas on one structure shall not exceed 15 cubic feet.

- i. No antenna shall extend horizontally more than 20 inches past the outermost mounting point (where the mounting hardware connects to the antenna).
- ii. Antennas and associated equipment enclosures not fully concealed within a pole shall be camouflaged to appear as an integral part of the pole or be mounted as close to the pole as feasible and shall be reasonably related in size to the intended purpose of the facility and reasonable expansion for future frequencies and/or technologies, not to exceed the volumetric requirements otherwise required in this ordinance.

<sup>365</sup> Table reference updated from "Table 11-06.3."

- iii. Antennas and antenna equipment shall not be illuminated except as required by municipal, federal, or state authority or as incidental to deployment on a streetlight.

**(b) Strand-Mounted Wireless Facilities**

Strand-mounted facilities shall comply with the following:

- i. Each strand-mounted antenna shall not exceed three cubic feet in volume;
- ii. No more than two strand mounted antennas between any two existing poles;
- iii. Strand-mounted devices shall be placed as close as possible to the nearest pole and in no event more than five feet from the pole unless a greater distance is required by the pole owner; and
- iv. No strand-mounted device will be located in or above the portion of the roadway open to vehicular traffic. Strand-mounted devices shall be installed with the minimum excess exterior cabling or wires to meet the technological needs of the facility.

**(c) Replacement**

- i. The centerpoint of the replacement pole shall be located no more than five feet away from the centerpoint of the original pole.
- ii. Construction of the replacement pole entails no new ground disturbance within a five foot radius outside previously disturbed areas, including disturbance associated with temporary support of utility, communications, or related transmission lines.
- iii. The pole does not exceed the height of the zoning district, except as otherwise authorized under this Code; and
- iv. Has an appearance consistent with the quality and appearance of the original pole.

**(d) Exceptions**

- i. The design standards shall not apply to the extent that the facilities comply with any of the following:
  - A. Antennae located entirely within approved signage, including antennae placed within the sign face or attached to a support structure so long as the design is such that the antennae is effectively unnoticeable. Such antennae shall not be placed on a non-conforming sign.
  - B. Flush mounted, color coordinated panels on existing buildings where equipment is not visible above the roof line. All equipment shelters, cabinets or other accessory structures shall be located within the building utilized for the antennae, or on the ground located outside of any required setbacks, required landscaping or parking spaces.
  - C. Antennae built into architectural features or which appear to be architectural features themselves, added to existing structures (such as chimneys, cupolas, dormers, bell towers, steeples, water tanks, stadium lights, utility poles, and other similar features) where the zoning height limit for such architectural features is not exceeded.



- D. Co-location on existing facilities where the height of the existing structure or pole does not increase over the maximum height of the base zoning district, unless conditionally approved.
  - E. Installations which are located far from any prospective viewer and in such a way as to have a backdrop of terrain which obscures the antennae as to make it visibly unobtrusive and effectively unnoticeable; or
  - F. Antennas that appear to be natural features indigenous to the site and which are located in proximity to the features they are imitating so that they blend in and do not stand out visually.
- ii. An applicant may seek Director approval to deviate from applicable site and design standards to the extent that compliance with the standard: (i) is not technically feasible; (ii) impedes the effective operation of the WCF; (iii) conflicts with other applicable laws or requirements governing the WCF; or (v) otherwise materially inhibits or limits the provision of wireless service.

#### (7) Eligible Facilities Request

Upon receipt of an Eligible Facilities Request, the Director shall review such application to determine whether the application so qualifies. The Director shall issue an approval if the application qualifies.

#### D. Brewpub, Micro-distillery, or Micro-winery<sup>366</sup>

- (1) In the MX-1 zoning district, this use shall not exceed 10,000 square feet of gross floor area and shall maintain at least 20 percent of the gross floor area for public use as an area for consumption of products produced on the premises.
- (2) In other zoning districts where this use is allowed, except the I-1 and I-2 districts<sup>367</sup>, Brewpubs, Distilleries, or Wineries shall not exceed 20,000 square feet of gross floor area, and shall maintain at least 40 percent of the gross floor area of the facility for public use as an area for consumption of products produced on the premises and food items.
- (3) In the MX-1, MX-3, MX-4, and MX-5 districts, this use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.C, 11-04-09.5.D 11-04-09.5.E as applicable to the zoning district in which the property is located.<sup>368</sup>

#### E. Food Truck Court<sup>369</sup>

##### (1) General

- (a) Food Trucks operating within a Food Truck Court shall meet all applicable City, State, and federal licensing requirements and shall be in good operating condition.
- (b) Vehicular drive-through service from individual food trucks is prohibited.

##### (2) Location

- (a) Food Trucks and associated seating areas shall not be located in any required landscaping area, access easement, driveway, or fire lane(s).
- (b) All eating, drinking, service, and delivery activity shall occur on private property, outside of the public right-of-way.

<sup>366</sup> New standards for new use.

<sup>367</sup> New in Consolidated Draft.

<sup>368</sup> Added in Consolidated Draft.

<sup>369</sup> New standards for a new use.

**(3) Site Design**

- (a) There shall be at least three feet of clearance between each individual Food Truck and between each permanent or accessory structure and at least 10 feet of unobstructed clearance for Food Trucks parked side-by-side.
- (b) Accessible restroom facilities, including handwashing facilities, shall be provided.
- (c) Each Food Truck Court shall provide trash receptacles sized to meet expected demand and shall empty or remove them after use. The site shall include a trash collection facility, including but not limited to a designated dumpster location accessible by trash collection vehicles.
- (d) The Food Truck Court shall be designed to allow for continuous pedestrian ingress and egress to and from the site as well as accessible internal walkways or passageways between Food Trucks, restroom facilities, trash receptacles, and seating areas.

**(4) Operations**

- (a) When located adjacent to a Residential zoning district, the hours of operation shall be limited between 6:00 a.m. and 10:00 p.m.
- (b) Any amplified sound shall comply with Title 5, Chapter 7 of the Boise City Code regarding permissible levels of noise.

**F. Neighborhood Café<sup>370</sup>**

- (1) A Neighborhood Café shall not exceed 2,000 square feet in gross floor area.
- (2) If alcoholic drinks are served, food shall be served as well.
- (3) Any outdoor seating area is limited to no more than 30 percent of the gross floor area of the Café.
- (4) In the R-1C zoning district, the location of this use is limited to corner lots.
- (5) Drive-Through Facilities are prohibited.
- (6) The Café shall only operate between the hours of 6:00 a.m. and 10:00 p.m.

**G. Restaurant<sup>371</sup>**

In the MX-1, MX-3, MX-4, and MX-5 districts, this use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.C, 11-04-09.5.D, and 11-04-09.5.E as applicable to the zoning district in which the property is located.

**H. Bed and Breakfast<sup>372</sup>**

- (1) In the R-1A, R-1B, R-1C, R-2, R-3, and MX-1 districts:
  - (a) This use is limited to Single-Family Detached Dwellings; and
  - (b) Food service shall only be provided to residents and overnight guests.
- (2) Each guest stay shall be limited to a maximum of 30 consecutive days.
- (3) No food preparation or cooking shall be conducted within any bedroom made available for guests.

<sup>370</sup> New.

<sup>371</sup> Added in Consolidated Draft.

<sup>372</sup> New.

- (4) The exterior design of any exterior modification of the structure or premises shall include an amount of facade articulation, and numbers and locations of windows and building entrances on the primary building facade that are similar to those in the surrounding area and neighborhood.

**I. Recreational Vehicle Park<sup>373</sup>**

Any Recreational Vehicle Park shall be subject to the following standards:

- (1) Recreational vehicles shall not be visible from adjacent or surrounding arterial streets or highways. Screening shall comply with Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.
- (2) Recreational Vehicle Park entrances shall be directly accessed from an arterial street, and routes to the park shall not pass through residential neighborhoods.
- (3) Any slide-outs, stairs, or similar items shall be contained within the vehicular area of the site.
- (4) No more than one recreational vehicle shall be permitted at any individual site. Vehicles that tow or are towed by the recreational vehicle shall also be parked in the same portion of the site as the recreational vehicle.
- (5) Recreational Vehicle Parks shall have a full-time manager on site at all times.
- (6) Services and amenities within the Recreational Vehicle Park shall be restricted to use by registered campers and their guests, and shall include at a minimum water, sewer, and electricity for each site, water and sewer facilities for common buildings, dump stations, common bathrooms and showers in the camping area, laundry facilities, a management office, and an active recreational area that complies with Subsection (7) below.
- (7) An active recreational area shall be a minimum of four percent of the site, and may include a clubhouse, indoor swimming pool, outdoor amphitheater, food and beverage service, catering facilities, and other such similar amenities.
- (8) Sale of retail items shall be limited to registered campers and their guests, and shall not occupy more than 2,000 square feet of building area.
- (9) No blocking or skirting of recreational vehicles shall be permitted.
- (10) No outdoor storage by park guests shall be permitted.
- (11) The site shall be properly graded for drainage, and surfaced with concrete, asphalt or any other improved surface approved by the Planning Director based on durability, appearance, and dust control.
- (12) The site shall be maintained in good condition, free of weeds, trash, and debris.

**J. Financial Establishment, Medical or Dental Clinic, Personal and Business Services<sup>374</sup>**

- (1) In the R-2 and R-3 zoning districts, these uses may only be located on the ground floors of buildings containing primary Multifamily Dwelling uses.
- (2) In the MX-3 district, this use shall comply with the Use-Specific Form Standards in Section 11-04-09.5.C.
- (3) In the MX-1, MX-4, and MX-5 districts, each Personal and Business Service use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.D, or 11-04-09.5.E as applicable to the zoning district in which the property is located.<sup>375</sup>

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<sup>373</sup> New.

<sup>374</sup> New.

<sup>375</sup> Added in Consolidated Draft.

**K. Office<sup>376</sup>**

- (1) Within the R-3 zoning district, professional and executive offices are allowed on a lot or parcel where the side of such lot or parcel abuts a Mixed-Use, Industrial, or Open Land and Institutional zoning district and is located in a structure originally developed for principal residential uses. Such uses are not allowed on properties separated from a Mixed-Use, Industrial, or Open Land and Institutional zoning district by an alley or street, or on a property that was not originally developed for residential principal use, except as described in Subsection (2) below.<sup>377</sup>
- (2) In the I-1 and I-2 zoning districts, construction of new buildings for primary office uses, or the creation of accessory office uses that occupy more than 25 percent of the gross floor area of a primary structure require a Conditional Use Permit pursuant to Section 11-05-05.3.L. The use of up to 25 percent of the gross floor area of a new or existing building for office uses accessory to Allowed or Conditional Uses in the building does not require a Conditional Use Permit.<sup>378</sup>
- (3) In the MX-1, MX-3, MX-4, and MX-5 districts, this use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.C, 11-04-09.5.D, and 11-04-09.5.E as applicable to the zoning district in which the property is located.<sup>379</sup>

**L. Firing Range, Indoor<sup>380</sup>**

- (1) The City may require a nuisance abatement plan or restrict hours of operation as a condition of approval to minimize adverse impacts on adjacent properties.
- (2) The design and construction of the use shall completely confine all ammunition rounds within the building and in a controlled manner.

**M. Retail Sales, Neighborhood<sup>381</sup>**

- (1) In the R-1C zoning district, the location of this use is limited to corner lots.
- (2) A neighborhood retail sales establishment shall only operate between the hours of 6:00 a.m. and 10:00 p.m.

**N. Retail Sales Small, Medium, or Large<sup>382</sup>**

- (1) In the MX-1, MX-3, MX-4, and MX-5 districts, each Small Retail use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.B, 11-04-09.5.C, 11-04-09.5.D, and 11-04-09.5.E, as applicable to the zoning district in which the property is located.
- (2) In the MX-3, MX-4, and MX-5 districts, each Medium Retail and Large Retail use shall comply with the Use-Specific Form Standards in Sections 11-04-09.5.C, 11-04-09.5.D, and 11-04-09.5.E, as applicable to the zoning district in which the property is located.

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<sup>376</sup> Very detailed provisions for R-3/NC-O district were not carried forward.

<sup>377</sup> Revised to apply to offices located in previously residential structures, but not freestanding new office structures and to delete the requirement for design review.

<sup>378</sup> New: Current requirement that all office uses in the I-1 and I-2 district require conditional use approval and must provide additional mitigation or amenities was not carried forward.

<sup>379</sup> Added in Consolidated Draft.

<sup>380</sup> New.

<sup>381</sup> New.

<sup>382</sup> New in Consolidated Draft.

**O. Sexually Oriented Business<sup>383</sup>**

**(1) Legislative Intent and Purpose**

- (a) It is the intention of the City that the provisions of this Section be construed, enforced, and interpreted in such a manner as will cause the least possible interference with any affected rights of speech, due process, equal protection, or other federal or state constitutional right,<sup>384</sup> as interpreted by the courts. This Code and each Section and provision thereof are hereby declared to be independent divisions and subdivisions and, notwithstanding any other evidence of legislative intent, it is hereby declared to be the controlling legislative intent that if any provisions of this Section, or the application thereof to any person or circumstance is held to be invalid, the remaining Sections or provisions and the application of such Sections or provisions to any person, business, or circumstances other than those to which it is held invalid, shall not be affected thereby, and it is hereby declared that such Sections and provisions would have been passed independently of such Section or provision so known to be invalid.
- (b) The purpose of these regulations is to allow the reasonable location of a Sexually Oriented Business within the city in a manner that shall protect property values, neighborhoods, and residents from the potential adverse secondary effects of Sexually Oriented Businesses while providing to those who desire to patronize Sexually Oriented Businesses such opportunity in appropriate areas within the city. It is not the intent of this Code to suppress any speech activities protected by the First Amendment of the United States Constitution, but to impose content-neutral regulations that address the adverse secondary effects a Sexually Oriented Business may have on adjoining properties and the immediate neighborhood.
- (c) It has been determined and reflected in the land use studies of various US cities, that businesses that have as their primary purpose the selling, renting, or showing of sexually explicit materials have negative secondary impacts upon surrounding businesses and residences. The experience in other U.S. cities is that the location of a Sexually Oriented Business significantly increases the incidence of crimes, especially sex offenses, including rape, indecent exposure, lewd and lascivious behavior, and child molestation.
- (d) It has been determined and reflected in the land use studies of various US cities, that the operation of Sexually Oriented Businesses in business districts that are immediately adjacent to and that serve residential neighborhoods has a deleterious effect on both the business and the residential segments of the neighborhood, causing blight and down-grading property values.
- (e) It is the intent of these regulations to allow Sexually Oriented Businesses to exist within the city in various dispersed locations rather than to allow them to concentrate in any one business area. It is further the purpose of these regulations to require separation requirements between Sexually Oriented Businesses and residential uses,

<sup>383</sup> Removed reference to and standards for "bikini bar" in current Section 11-06-05.1.A. Special procedure provisions have been deleted. Applications will follow the standard Conditional Use Permit procedure.

<sup>384</sup> Replaced "other fundamental right" in Consolidated Draft, for clarity.

churches, parks, and educational institutions in an effort to buffer these uses from the secondary impacts created by Sexually Oriented Business activity.

**(2) Applicability**

The standards in this Section shall apply in the following circumstances:

- (a) The opening or commencement of any Sexually Oriented Business as a new business;
- (b) The conversion of an existing business or any part of any existing business to any of the Sexually Oriented Businesses regulated herein;
- (c) The addition or expansion of any business to include any of the regulated Sexually Oriented Businesses; and
- (d) The voluntary relocation of any such business.

**(3) Criteria**

In lieu of the generally applicable Conditional Use Permit criteria, a Sexually Oriented Business shall be subject to the following standards:

**(a) If the establishment is located in a Mixed-Use zoning district, it:<sup>385</sup>**

- i. Shall be limited to businesses licensed to serve beer, wine, alcohol, or spirituous liquor for consumption on the premises and that features live performers or servers wearing bikinis or swimsuits covering specified anatomical areas; and
- ii. Shall be located at least 300 feet from any residential use or zoning district.

**(b) In any zoning district in which the establishment is located, it shall comply with the following standards: <sup>386</sup>**

- i. It shall not be located within 1,000 feet of a public or parochial school or daycare as defined and licensed by the City; a public park or playground; a Bar or Tavern or other premises serving alcohol; religious institution; or any other Sexually Oriented Business;
- ii. It shall not be located on a lot or parcel that is within 500 feet of a residential use or zoning district (except as noted in Subsection (a)(i) above);
- iii. Distance shall be measured in a straight line from the property line closest to the property line of the nearest school, park, playground, religious institution, or other Sexually Oriented Business. These standards shall apply regardless of the political jurisdiction in which schools, parks, or churches or other adult businesses are located;
- iv. Lobby and entrance areas should be designed so as to minimize obstruction of sidewalks during operating hours and shall be oriented and consistent with other commercial activities in the area;
- v. All building openings, entries, windows, and the like, shall be located, covered, or screened in such a manner as to prevent a view into the interior, so that

<sup>385</sup> Carries forward limitations in the current code requiring that any adult use in the Mixed-Use districts involve defined levels of clothing.

<sup>386</sup> At the suggestion of the City Attorney's office, the current text requiring PZC review of the sign package for Sexually Oriented Businesses was not carried forward, because the City does not review sign packages for any other Conditional Use. Although those regulations prevented the depiction of Specific Anatomical Area and Specific Sexual Activities, those prohibitions are probably covered under the City's powers to prevent obscenity (which is generally not protected under the First Amendment), which would apply to all signage for all uses.

personnel, instruments, devices, paraphernalia, and body parts thereof, that are associated in any manner with specified anatomical areas or specified sexual activities, cannot be viewed from streets, sidewalks, and adjacent private properties;

- vi. No loudspeakers or sound equipment shall be used for such businesses that can be discerned by the public outside the building;
- vii. The disposal of garbage and trash containing sexually explicit materials shall be disposed of in a manner that prevents minors from having access to the material; and
- viii. Hours of operation are from 4:00 p.m. to 2:00 a.m. One security staff person is required for each 20 required parking spaces or fraction thereof. The hours of operation shall be visibly posted on all entrances and exits.
- ix. On-site security shall be present during all hours of operation.
- x. These provisions shall not be construed as permitting any use or act that is otherwise prohibited or made punishable by law.
- xi. No sexually oriented materials or performances shall be disseminated, performed for, by, or upon minors. Signs prohibiting minors upon premises shall be visibly posted on all entrances and exits.
- xii. All areas of the use shall be illuminated at a minimum of 20 footcandles, normally maintained and evenly distributed at ground level. except that performance venues shall only be required to be illuminated at a minimum of five footcandles.<sup>387</sup>
- xiii. The establishment shall limit the maximum number of image producing devices to the maximum occupancy load permitted in any room or partitioned portion of a room in which an image producing device is located.

**P. Service Station<sup>388</sup>**

- (1) In the MX-1 zoning district, Service Stations shall be limited to a maximum of eight fuel pumps.
- (2) All activities other than vehicle fueling shall be conducted within a completely enclosed building.
- (3) No outdoor storage of vehicle parts, discarded tires, or similar materials shall be permitted.
- (4) Outdoor storage of more than three temporarily inoperable vehicles awaiting repairs shall be prohibited.
- (5) Fuel canopies shall be located to the side or rear of properties to minimize visual impact from public streets.
- (6) Where this use is located adjacent to a Residential or Mixed-Use zoning district, the lot lines adjacent to the Residential or Mixed-Use zoning district shall be screened pursuant to Section 11-04-08.5, *Site Perimeter Buffers*.

<sup>387</sup> Lighting standards were significantly simplified.

<sup>388</sup> New.



- (7) Service Station canopies shall comply with the canopy lighting standards in Section 11-04-010.4.G, *Canopy Lighting*.

**Q. Vehicle Repair, Major and Minor<sup>389</sup>**

- (1) All major overhaul, body, and fender work, upholstery and welding, and spray painting shall be conducted within a completely enclosed building.
- (2) No outdoor storage of vehicle parts, discarded tires, or similar materials shall be permitted.
- (3) Outdoor storage of more than three wrecked or temporarily inoperable vehicles awaiting repairs shall be prohibited.
- (4) Where this use is located adjacent to a Residential or Mixed-Use zoning district, the lot lines adjacent to the Residential or Mixed-Use zoning district shall be screened pursuant to Section 11-04-08.5, *Site Perimeter Buffers*.

**R. Vehicle and Equipment Sales, Rental and Leasing, Light and Heavy<sup>390</sup>**

- (1) This use shall not be located within 300 feet of a Residential zoning district.
- (2) Vehicles shall not be displayed in required setbacks or areas designated for parking, vehicle and bicycle traffic circulation, fire lanes, or required landscaping.<sup>391</sup>
- (3) Vehicles shall be displayed outside clear vision triangles at any intersection or driveway and shall not obstruct the sidewalk or entrance into the primary building or any other sidewalks that allow for pedestrian access to the site.
- (4) Outdoor storage areas for vehicles that are not for sale or lease are only allowed in the I-2 zoning district.
- (5) Where this use is located adjacent to a Mixed-Use zoning district, the lot lines adjacent to the Mixed-Use zoning district shall be screened pursuant to Section 11-04-08.5, *Site Perimeter Buffers*.
- (6) No loading and unloading of vehicles or parking or sale of display vehicles in the public right-of-way is permitted.

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**5. Industrial Uses**

**A. Artisan Industry<sup>392</sup>**

- (1) All activities shall be conducted within a completely enclosed building.
- (2) If located in a Mixed-Use zoning district, this use shall not exceed 10,000 square feet of gross floor area.
- (3) Retail sales of goods produced on the property are allowed.

**B. Light Industry and Heavy Industry**

- (1) Any facility using hazardous materials or procedures subject to additional review, licensing, or approval by state or federal law, or emitting electromagnetic radiation or other radiation, shall comply with all state and federal requirements regarding the storage, handling, transfer, use, and safety of those materials, procedures, or radiation, and require approval pursuant to Section 11-05-05.3.B *Conditional Use Permit - Initial Approval or Major Expansion*.

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<sup>389</sup> New.

<sup>390</sup> New.

<sup>391</sup> Wording revised for clarity, reference to fire lanes added, and option to avoid these restrictions through site plan approval was deleted.

<sup>392</sup> New.



- (2) In the I-1 zoning district, this use shall be screened from abutting properties in any zoning district other than the I-1 and I-2 districts, and from abutting public streets, by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.
- (3) In the I-2 zoning district, this use shall be screened from abutting properties in any zoning district other than the I-2 district, and from abutting public streets, by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

#### C. Mining and Extraction

- (1) This use is prohibited within:
  - (a) 200 feet of a Mixed-Use zoning district;
  - (b) 600 feet of an O-1, O-2, or O-3 zoning district;<sup>393</sup>
  - (c) 600 feet of any lot in a Residential zoning district occupied by a residential use other than Caretaker's Residence; and
  - (d) 600 feet of any lot containing a Religious Institution or School.
- (2) In all zoning districts where this use is permitted, the use shall be screened from abutting properties in any zoning district other than an I-2 district, and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

#### D. Outdoor Storage<sup>394</sup>

- (1) In the Mixed-Use zoning districts where this use is permitted, this use is only permitted as an accessory use to an Allowed or approved Conditional Use on the lot, and not as a principal use of the lot.
- (2) In all zoning districts where this use is permitted, the use shall be screened from abutting properties in any zoning district other than an I-2 district, and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

#### E. Self-Service Storage<sup>395</sup>

- (1) All storage shall be kept within an enclosed building, except recreation or other oversized vehicles, which shall be stored only in exterior areas screened from view from any street frontage.
- (2) Only storage of goods and materials are allowed in self-storage rental spaces. The use of storage spaces to conduct or operate a business is prohibited.
- (3) The storage of hazardous materials is prohibited.
- (4) Loading docks shall not be located on a side of the facility abutting a Residential zoning district.
- (5) A permanent screen shall be required along all property boundaries and shall conform to landscaping and screening requirements in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

<sup>393</sup> Expanded to apply to all open space districts.

<sup>394</sup> New.

<sup>395</sup> New.

**F. Trucking Terminal<sup>396</sup>**

This use shall be screened from abutting properties in any zoning district other than an I-2 district, and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

**G. Wholesale or Warehouse<sup>397</sup>**

- (1) The use shall not locate storage areas, truck loading bays, or vehicle circulation routes within a required setback or perimeter buffer.
- (2) The use shall locate outdoor storage areas to the rear of the primary structure and screen them in accordance with Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.
- (3) Sufficient off-street loading and maneuvering space to handle anticipated vehicles shall be provided, and the public right-of-way shall not be used for backing movements.
- (4) The use shall have direct access onto an arterial or collector street.

**H. Utility Facility, Minor<sup>398</sup>**

- (1) Public service poles, towers, or similar installations are of a height of 85 feet or less are allowed, including the replacement of existing facilities.
- (2) Public service poles, towers, or similar installations of a height of 85 feet or greater require approval pursuant to Section 11-05-05.3.B *Conditional Use Permit - Initial Approval or Major Expansion*, and in addition the pole, tower, or installation, locations and heights shall:
  - (a) Not interfere with airport height restrictions;
  - (b) Minimize disturbance to views from established residential areas;
  - (c) Minimize disturbance to or interference with view of city, state, or federally registered historic structures;
  - (d) Not obstruct clear vision triangles or otherwise threaten motorist or pedestrian safety;
  - (e) Minimize conflict with existing uses;
  - (f) Be within route corridors already established or used by rail, automobile traffic arterials, or electrical transmission; and
  - (g) Be within route corridors that provide for a satisfactory level of energy efficient transmission of the product (electrical energy or other signals); or
  - (h) Be the best available alternative placements and heights, even though they do not comply perfectly with all the above findings.

**I. Composting Facility<sup>399</sup>**

This use shall comply with the following standards:

- (1) A minimum 50 foot setback shall be maintained from the property boundaries to any active processing area of the facility including any area used for storage, active composting, and curing;

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<sup>396</sup> New

<sup>397</sup> New.

<sup>398</sup> Carries forward 11-06-04.5. Inconsistent text as to whether these provisions apply only in residential districts was resolved in favor of their applicability in all zoning districts.

<sup>399</sup> Carried forward and simplified from current Section 11-06-06.2.A, Requirement to submit a site and operational plan with Conditional Use Application relocated to the City's website.

- (2) A minimum 200 foot buffer zone between the active composting pile and any existing Residential zoning district shall be maintained;
- (3) No composting facility shall be allowed in a floodplain or floodway;
- (4) Adequate space shall be provided between the piles to allow access to vehicles, including firefighting equipment;
- (5) All organic materials received at the composting facility shall be removed from any containers unless the containers are biodegradable, in which case the container shall be opened before composting;
- (6) A sign shall be posted and maintained at the composting facility showing the nature of the project, facility name, address and telephone number of operator, operating hours, materials that may be received by the facility, and the phrase, "No Dumping of Garbage, Trash, Or Rubbish Allowed"; and
- (7) The use shall be screened from abutting properties in any zoning district and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.<sup>400</sup>

**J. Junkyard, Vehicle Salvage<sup>401</sup>**

- (1) This use shall be conducted within a building or within a yard enclosed on all sides by a wall or solid fence at least eight feet in height.
- (2) Openings equipped with a gate or door not exceeding 24 feet in width, or not exceeding the minimum width needed to allow access to railroad lines or spurs serving the property, are permitted to allow vehicle access into the site.
- (3) Openings for vehicle access shall be closed when the establishment is not open for business.
- (4) Uses shall not have vehicle access points from or channel a majority of the traffic generated by the use onto a local residential street.
- (5) The use shall be screened from abutting properties in any zoning district and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

**K. Recycling Collection Facility<sup>402</sup>**

Drop-off Recycling Collection Facilities shall comply with the following standards:

- (1) A Zoning Certificate is required for each new recycling container site.
- (2) Containers shall be located so as to do not interfere with required access or parking.
- (3) Containers shall be kept in a state of good repair and emptied on a regular basis to prevent overflow.
- (4) All containers shall be clearly marked as to the materials to be deposited in them.
- (5) Non-compostable residues shall be disposed or processed at a permitted solid waste disposal facility in accordance with local, state, and federal laws, regulations, and standards.

<sup>400</sup> New.

<sup>401</sup> New.

<sup>402</sup> Carried forward current Section 11-06-06.2.B.

**L. Solid Waste Transfer Facility<sup>403</sup>**

- (1) The use shall be entirely enclosed within a building or yard enclosed on all sides by a wall or solid fence at least eight feet in height and kept in good repair at all times. No waste or recyclable materials shall be stored or kept at a level higher than the surrounding wall or fence.
- (2) Exterior storage areas including idling or waiting trucks shall be screened from the view of public streets or adjoining properties.
- (3) No overnight storage or any waste materials subject to rotting or odor creation shall be allowed.
- (4) The site shall be properly graded for drainage and surfaced with concrete, asphalt or any other improved surface approved by the Planning Director based on durability, appearance, and dust control.
- (5) The site shall be maintained in good condition, free of weeds, trash, and debris.
- (6) The site shall provide barriers of such type and located so that no part of parked vehicles shall extend beyond the yard space or into the setback space from a lot line abutting a Residential zoning lot or separated there from a street.
- (7) The use shall be screened from abutting properties in any zoning district and from abutting public streets by a Type A buffer as described in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.<sup>404</sup>

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**6. Accessory Uses and Structures**

**A. General<sup>405</sup>**

**(1) Purpose**

This Section authorizes the establishment of accessory uses that are incidental and customarily subordinate to principal Uses. An accessory use is "incidental and customarily subordinate" to a principal use if the Planning Director determines that it 11-03-03.6 complies with the standards set forth in this Section and all Use-Specific Standards applicable to that accessory use.

**(2) List of Accessory Uses and Structures**

Commonly allowed accessory uses are shown in Table 11-03.1: *Table of Allowed Uses*, but that list does not include all possible uses that are secondary and subordinate to a principal use of land in each zoning district. All principal uses in a zoning district shall be deemed to include those accessory uses, structures, and activities typically associated with the use, unless specifically prohibited in this Code, and may be approved by a Zoning Certificate if the Planning Director determines that the proposed accessory use complies with this standard and with all Use-Specific Standards applicable to the use.

**(3) General Standards for Accessory Uses**

All accessory uses and structures shall comply with the following general standards, except Accessory Dwelling Units, that are subject to the standards set forth in Section 11-03-03.2.B. In the event of a conflict between this Section 11-03-03.6.A and Section 11-03-03.2.B, the provisions of Section 11-03-03.2.B shall apply.

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<sup>403</sup> New.

<sup>404</sup> New.

<sup>405</sup> Carried forward current Section 11-06-07.1-3, reworded for clarity and to reflect current practice.

**(a) Subordinate to Principal Use**

No accessory building shall be used unless the primary building is also being used. The accessory use or structure shall be conducted and/or located on the same lot(s) as the principal use. The principal use and the accessory use shall be under the same ownership and shall use the same utility meter, with the exception of an approved Accessory Dwelling Unit.

**(b) Timing of Accessory Uses and Structures**

No accessory use may be established prior to establishment of the principal use with which such accessory use is associated.

**(c) Location and Setbacks<sup>406</sup>**

- i. No detached accessory building or structure shall occupy any area in front of the primary building, unless approved by the Planning and Zoning Commission as a conditional use. However, on lots that have factory built housing or topographical or other physical constraints, the Planning Director may approve a detached accessory building or structure in front of the primary building.
- ii. Regardless of their size, detached accessory buildings shall not encroach into required street side or front yard setbacks.
- iii. Accessory structures such as decks and patios that are one foot or less in height as measured from the property's finished grade, may occupy any setback area.
- iv. Open post patio/shade covers, pergolas, and similar structures under 250 feet in area and less than 15 feet in height and attached to the home, may have rear yard setbacks of nine feet. Interior side yard setbacks shall be per the zoning district. For corner lots, a minimum 15 foot street-side yard setback is required. Structures that use these reduced setbacks shall not occupy more than 50 percent of the lot's rear yard widths.
- v. In-ground pools that are one foot or less in height, as measured from the property's finished grade, may occupy any rear or interior side yard area, provided a minimum three foot setback is maintained from the pool apron or splashguard. Hot tubs, diving boards, decks, and other features that are more than one foot above grade shall be located outside of setbacks.
- vi. In all Residential zoning districts, garages and carports opening onto a side street shall have a minimum distance between the opening of such garage or carport and the side street lot line of not less than 20 feet.

<sup>406</sup> Language clarified to distinguish between required setbacks and yard areas.

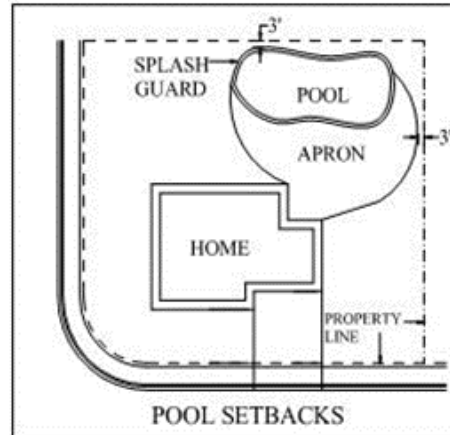


Figure 3-3. In-Ground Pool Setbacks

**vii. Alley-Loaded Accessory Parking Structures**

- A.** Alley-loaded parking and parking structures shall provide a back up area of at least 22 feet. This back up area may be within the alley and/or the lot but not within an accessory structure.
- B.** A minimum five foot paved apron is required regardless of alley width.
- C.** For side entry alley-loaded garages the back up area shall be provided for on the lot.
- D.** Detached accessory parking structures that are over 500 square feet, but less than or equal to 1,000 square feet in area and that are under 22 feet in height (from grade to the peak of the roof) may be built to the rear or side lot lines abutting an alley.
- E.** Detached accessory structures over 1,000 square feet in area or over 22 feet in height (from grade to the peak of the roof) shall comply with the setback requirements applicable to primary structures.

**viii. Residential Accessory Structures More Than 1,000 Square Feet in Area or 22 Feet in Height**

A Zoning Certificate is required for accessory structures over 1,000 square feet in area or 22 feet in height (from grade to the peak of the roof), subject to the following:

- A.** No commercial use shall take place within the building;
- B.** The square footage shall not exceed the floor area of the primary building;
- C.** The building shall be architecturally compatible with the primary building; and
- D.** The building shall be compatible with neighboring properties in mass, and design.

**B. Beekeeping<sup>407</sup>**

The purpose of these regulations is to ensure sound beekeeping practices and avoid problems that might be associated with the keeping of bees in an urban setting.

**(1) Standards**

Beekeeping standards shall be as follows:

**(a) Noxious Insects Prohibited**

The keeping of wasps, hornets, Africanized bees (*Apis mellifera scutellata*) and other noxious insects is prohibited.

**(b) Density of Hives and Colonies**

There is no minimum parcel size for beekeeping. However, the maximum density is three colonies per one-fourth acre. Higher densities may be permitted by Conditional Use Permit.

**(c) Nucleus Colonies**

For every two colonies authorized above, one additional nucleus colony is allowed.

**(d) Hives**

Colonies shall be kept in hives with removable frames.

**(e) Flyway Barriers**

For colonies located within 25 feet of a property boundary, a flyway barrier at least six feet in height consisting of a solid wall, fence, or dense hedge parallel to the property line and extending 10 feet beyond the apiary in each direction is required.

**(f) Setbacks and Placement**

Hives shall be located at least 20 feet from front property lines and three feet from other property lines. The back of the hive shall be oriented to adjoining properties.

**(g) Water Source**

A constant supply of fresh water is required. It shall be readily accessible to the bees and to allow them to access water by landing on a hard surface. A water supply is not required during winter and other inactive months.

**(h) Maintenance**

Hives not being actively maintained shall be removed. Colonies shall be maintained so as to not interfere with the quiet enjoyment of surrounding properties.

**(i) Queens**

Where a colony exhibits unusually aggressive characteristics the colony shall be destroyed or re-queened.

**(j) Compliance with State Statutes**

Beekeeping shall comply with all applicable state laws.

**(k) Contact Information**

Contact information for a responsible party shall be posted at apiaries on vacant property.

<sup>407</sup> Carried forward current Section 11-06-07.4.B.

**C. Drive-Through Facility<sup>408</sup>**

All Drive-Through Facilities shall comply with the following standards:

- (1) Design and operation of the establishment is substantially in compliance with general requirements of this Section;
- (2) Site traffic circulation is not disrupted by increased vehicular congestion, blockage, or rerouting caused by the establishment;
- (3) The number of drive-through lanes is limited to allow for adequate on-site circulation of pedestrians and vehicles;
- (4) The minimum number of parking spaces required for all uses of the site, upon which the drive-up window establishment is placed, shall be maintained;
- (5) The location shall not cause an increase of commercial traffic in nearby residential neighborhoods, or cause significant adverse impacts in the vicinity;
- (6) Drive-through aisles should be located behind the building and circulation should provide for pedestrian access to and from the establishment's entrance;
- (7) Waiting lane(s) shall be of sufficient length to accommodate average monthly peak volumes;
- (8) Lights shall be designed and located to prevent glare on adjoining properties. Screening of lights may be required as a secondary measure of mitigation;
- (9) Landscaping should screen drive-up aisles from the public right-of-way and minimize the visual impact of vehicular lights, readerboard signs, and directional signs;
- (10) Drive-through lanes shall be setback at least 10 feet from a Residential zoning district or residential use. Landscape and sound abatement walls shall be required;
- (11) Communication systems shall not exceed 55 decibels at any property line adjoining or across the alley from Residential zoning districts or uses; and
- (12) The Planning and Zoning Commission may limit the hours of operation of a Drive-Through Facility.

**D. Electric Vehicle Charging Station<sup>409</sup>**

- (1) In the Residential zoning districts, this use shall not be made available for use by the general public unless accessory to Multifamily Dwelling or an allowed or approved conditional use.
- (2) Each charging station that is located in a parking lot shall comply with all applicable provisions of Section 11-04-07.5.C, *Electric Vehicle (EV) Parking Spaces*.

**E. Food Truck, Accessory<sup>410</sup>**

This use is allowed to operate on private property, provided that:

- (1) Each Accessory Food Truck shall comply with all applicable City, state, and federal licensing requirements and shall be in good operating condition.
- (2) Each Accessory Food Truck and any associated tables, chairs, displays, umbrellas, other equipment shall not physically occupy or obstruct access to any parking stalls necessary

<sup>408</sup> Carried forward current Section 11-06-05.3.A. All references to "Drive-Up Establishment" replaced with "Drive-Through Establishment. Removed HS district-specific requirement limiting drive-through windows to health-related uses due to the consolidation of zoning districts. Did not carry forward 11-06-05.3.A(2)(c) and (d) related to specific standards for the C-1 and C-5 zoning district based on proposed changes to allowances in Table of Allowed Uses.

<sup>409</sup> New.

<sup>410</sup> New.



to meet the minimum parking requirements for any on-premises land uses, unless the Accessory Food Truck is operating outside of the business hours of on-premises uses.

- (3) Each Accessory Food Truck and any associated tables, chairs, displays, umbrellas, and other equipment, do not obstruct any designated pedestrian, bicycle, or vehicle ingress or egress from the property, or any designated drive aisle.
- (4) Each Accessory Food Truck shall have written permission from the property owner for use of the site and allowed location on the site, a copy of which shall be kept in the Accessory Food Truck and made available for review by any City inspector at all times during operation of the Accessory Food Truck at the site.
- (5) The Accessory Food Truck operator shall provide trash receptacles sized to meet expected demand and shall remove them after the Accessory Food Truck completes serving food.

**F. Home Occupation, Other**

**(1) Procedure for Approval**

- (a) A Home Occupation that is not prohibited by this Code is allowed without submittal of an application or approval of a Zoning Certificate if it complies with all of the standards in Subsection (2) below.
- (b) A Home Occupation that does not comply with all of the criteria in Subsection (2) below requires filing of an application and approval of a Zoning Certificate pursuant to Subsection (3) below.
- (c) More than one Home Occupation may be approved for the same property address provided that the combined activities and uses of the Home Occupations do not exceed the approval criteria in this Code. For example, the aggregate total of floor space devoted to one or more Home Occupations at a given address shall not exceed 500 square feet.

**(2) Standards for Approval Without Issuance of Zoning Certificate<sup>411</sup>**

- (a) The use is clearly incidental and secondary to the use of the lot or parcel for dwelling purposes.
- (b) The use is conducted entirely within a dwelling or permitted accessory structure and the aggregate of all space within any or all buildings devoted to one or more Home Occupations shall not exceed 500 square feet in floor area.
- (c) Outdoor storage of materials and supplies is prohibited.<sup>412</sup>
- (d) The owner and operator of the Home Occupation shall reside on the premises and shall not employ others to work in the home.
- (e) Required off-street parking spaces for the residence shall be maintained.
- (f) Deliveries and pickups shall be limited to two per day between the hours of 8:00 a.m. and 6:00 p.m., Monday through Friday.
- (g) Instructional classes shall be limited to one student at a time with a maximum of eight per day.

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<sup>411</sup> Examples of specific allowed uses (and in some cases size limits on outdated uses) were deleted as outdated.

<sup>412</sup> Revised to apply to outdoor storage of all materials, not just building materials.

- (h) Any materials used or any item produced or repaired on the premises shall not be displayed or stored so as to be visible from the exterior of the building.
- (i) Only items produced on the premises or incidental to the service being offered may be offered for retail sale, and any such sales shall be incidental to the provision of the related service as the principal Home Occupation.
- (j) One non-illuminated wall sign not exceeding two square feet in area and mounted flat against the building is allowed.

**(3) Standards for Approval Requiring Issuance of Zoning Certificate**

Home Occupations that do not comply with all of the standards in Subsection (2) above require the filing of an application and issuance of a Zoning Certificate based on a review by the Planning Director to ensure they will not be a detriment to the livability of the neighborhood. The Planning Director may approve the proposed Home Occupation if the Planning Director determines that all of the standards in Subsection (2) above have been met, except as modified by the standards below.

- (a) One vehicle, in addition to that used by an employee, may be used with a Home Occupation subject to the following:
  - i. Commercial vehicles are prohibited.
  - ii. One off-street parking space is required and may be provided on a driveway apron.
  - iii. Construction trailers shall be stored outside of required setbacks on improved surfaces and shall not be visible a street.
- (b) Outdoor storage of materials and supplies is prohibited.<sup>413</sup>
- (c) Instructional classes shall be limited to a maximum of five students per class, and limits on hours within which instruction may occur may be added.
- (d) Internal or external changes that would make the dwelling appear less residential are prohibited. Examples include construction of parking lots, paving of required setbacks, and adding commercial-like exterior lighting.
- (e) If the Home Occupation meets the definition of Animal Daycare or Kennel, it shall require a noncommercial kennel license from the City Clerk.<sup>414</sup>

**(4) Prohibited Home Occupations<sup>415</sup>**

The following Home Occupations are prohibited, regardless of whether they comply with the standards in Subsections (2) and/or (3) above:

- (a) Occupations that involve highly combustible materials or any material;
- (b) Occupations where the dimensions, power rating, or weight of equipment and tools used exceed that of normal household equipment and tools;
- (c) Occupations that cause abnormal automotive or pedestrian traffic or that are objectionable due to unsightliness, odor, dust, smoke, noise, glare, heat, vibration, or similar disturbances;

<sup>413</sup> Revised to apply to outdoor storage of all materials, not just building materials.

<sup>414</sup> Carried forward current Section 11-12-02.2.B.(5) to address noncommercial kennel uses.

<sup>415</sup> Subsections (i) and (j) are new.

- (d) Retail stores;
- (e) Dispatch centers where employees meet at the dwelling unit and are sent to other locations;
- (f) Occupations that would detract from the residential character of the neighborhood;
- (g) Escort services;
- (h) Taxidermy;
- (i) Heavy equipment repair;
- (j) Firearms sales;
- (k) Any other use that is not listed as an allowed or conditional use in any zoning district in the city; and
- (l) Any other use prohibited as a principal use of land by this Code.<sup>416</sup>

**G. Livestock and Animals<sup>417</sup>.**

**(1) Commercial Livestock Uses**

The keeping of livestock for sale or the sale of livestock products (such as milk) shall comply with the following standards.

**(2) Animal Unit**

- (a) An animal unit is:
  - i. One horse, mule, cow, llama;
  - ii. Four sheep, goats, or swine;
  - iii. Six geese;
  - iv. 10 rabbits; or
  - v. Twelve chickens or ducks.
- (b) The Planning Director may determine a unit number for animals not listed.

**(3) Livestock as Lawful nonconforming Uses**

Nonconforming status shall be in accordance with Section 11-05-06, *Nonconformities*. Nonconforming status shall be lost if the livestock are absent from the property for a continuous period of two years.

**(4) Standards**

- (a) A minimum of one acre is required to keep livestock. For poultry and rabbits the minimum area is one half acre.
- (b) With the exception of poultry and rabbits, a minimum contiguous area of one half acre (exclusive of structures) shall be designed for the keeping of the livestock. For poultry and rabbits, the minimum area is one quarter acre.
- (c) Livestock shall be kept within fences, corrals, barns, or pens.
- (d) Livestock enclosures shall comply with setback requirements.
- (e) The maximum density is two animal units per acre of area set aside for the keeping of livestock. For example, if one half of a one acre lot is set aside for the keeping of

<sup>416</sup> Prohibition of any use not consistent with purpose statements of the Code was deleted as too vague for enforcement.

<sup>417</sup> Carried forward current Section 11-06-07.4.D. Deleted standards that described the definitions of "Livestock" and "Pet." Purpose statement was deleted as unnecessary.

livestock one animal unit is allowed. Maximum density shall not apply to offspring under nine months of age, nor shall it apply to pets.

- (f) Livestock and pets shall be kept so as to not cause adverse impacts on neighboring properties. This includes but is not limited to such impacts as odor, noise, drainage, erosion, and insects. The presence of such impacts can constitute a public nuisance that the City may cause to be abated.
- (g) Structures housing pets shall be located a minimum of 10 feet from any building used or capable of being used for human habitation on adjacent lots.
- (h) It shall be unlawful to keep any animal listed in Section 5-1-8 of the Boise City Code under the auspices of this Section.

**(5) Exceptions to Minimum Area**

- (a) Livestock may be kept on less than one acre when allowed by subdivision covenants or duly adopted overlay districts. If animal density is not addressed therein, the density requirements of this Code shall apply.
- (b) Livestock may be kept on less than one acre for educational purposes, such as 4H or FFA, though the maximum animal density shall not be exceeded.
- (c) Horses that are regularly ridden and exercised off-site may exceed the standard animal unit density. One horse is allowed for every 14,500 square feet of contiguous set aside area.

**H. Outdoor Storage, Accessory<sup>418</sup>**

- (1) Outdoor storage of corrosive, acid, alkali, flammable, or explosive materials is prohibited except as specifically indicated in this Code.
- (2) All outdoor storage shall be fully screened from adjacent properties and public rights-of-way with a solid or opaque fence or similar materials acceptable to the Planning Director.
- (3) In the MX-1 district, outdoor storage of materials and display of merchandise related to nonresidential uses is prohibited.<sup>419</sup>

**I. Renewable Energy Facility, Accessory<sup>420</sup>**

**(1) Accessory Solar Collectors**

- (a) Accessory solar collectors shall only be located in side or rear yards or on rooftops.
- (b) If the solar collector is not flush with the roof the applicant shall minimize the visibility of the collector from a public street, park, open space, or golf course to the maximum extent practicable without prohibiting the installation.
- (c) Ground-mounted accessory solar collectors are allowed as an accessory structure outside required setbacks.
- (d) Ground-mounted accessory solar collectors shall not exceed the height of the primary structure on the lot or parcel.

**(2) Accessory Wind Energy System**

- (a) An accessory wind energy system shall be set back from the property line and the primary structure at least one and one-half times the height of the turbine.

<sup>418</sup> Carried forward and expanded current Section 11-06-06.1.B.

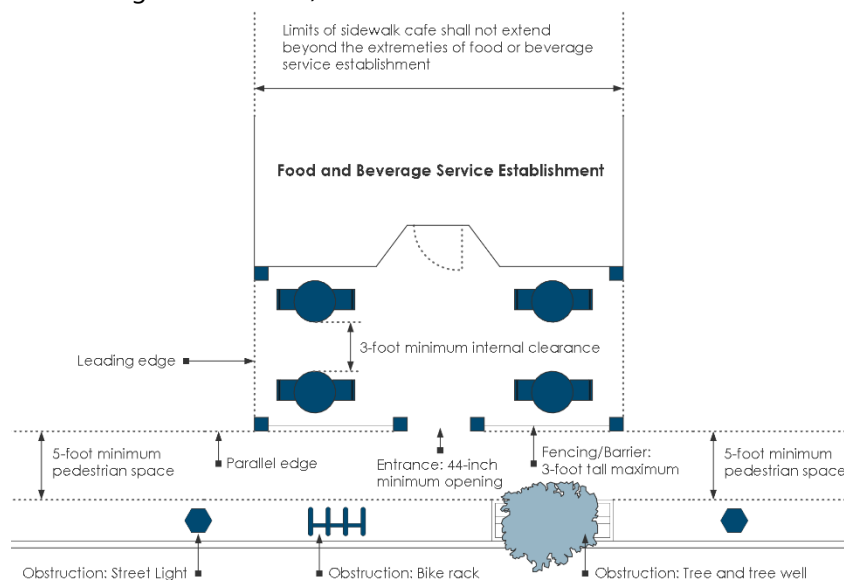
<sup>419</sup> New.

<sup>420</sup> New.

- (b) In Mixed-Use, Industrial, or Open Land and Institutional zoning districts, accessory wind energy systems shall only be located in side or rear yards
- (c) In Mixed-Use zoning districts, an accessory wind energy system shall not exceed the maximum building height of the applicable zoning district.
- (d) In the I-1 and I-2 districts, an accessory wind energy system may exceed the maximum building height of the applicable zoning district by 20 feet.

**J. Sidewalk Café<sup>421</sup>**

- (1) The property owner shall provide insurance coverage to protect the City from all liability for injury, death, or property damage occurring within the Sidewalk Cafe area or due to the operations of the Sidewalk Cafe, in a form and substance acceptable to the City.
- (2) The Sidewalk Cafe shall be designed and located:
  - (a) To avoid interference with any pedestrian access ramp from any abutting street onto the sidewalk, and to avoid all areas required for maneuvering of wheelchairs and other ambulatory devices at the top of any pedestrian access ramp; and
  - (b) So that an area at least five feet in width remains unobstructed to allow pedestrians clear passage around the Sidewalk Cafe area. The clear passage area shall not be obstructed by tree grates, flower planters, bicycles parked in bicycle racks, street lights, street furnishings, fencing, or other encroachments into the surface area of the sidewalk.
- (3) If the Sidewalk Cafe area has a direct entrance from the sidewalk, that entrance shall be at least 44 inches in width and shall be located on the edge of the Sidewalk Cafe parallel to the abutting building facade (the “parallel edge”, as shown in Figure 3-4 below).
- (4) If desired by the applicant, a secondary entrance may be provided on an edge of the Sidewalk Cafe area perpendicular to the abutting building facade (the “leading edge, as shown in Figure 3-4 below).



**Figure 3-4. Sidewalk Cafe Area Layout**

<sup>421</sup> New standards for a new use.

- (5) If the Sidewalk Cafe serves alcohol, a decorative fence three feet in height shall be provided along all edges of the Sidewalk Cafe area, and shall include a gate three feet in height across each primary and secondary entrance from the sidewalk. The fence shall be constructed of materials and with color similar to those used on the abutting building facade.
- (6) Within the Sidewalk Cafe area:
  - (a) Circulation aisles at least three feet in width shall be provided to allow patrons to access all tables and chairs; and
  - (b) All furniture and furnishings shall be durable and of the same visual appearance as the primary facade, as determined by the Planning Director.
- (7) Any plantings provided for the Sidewalk Cafe shall be located within the Sidewalk Cafe area.

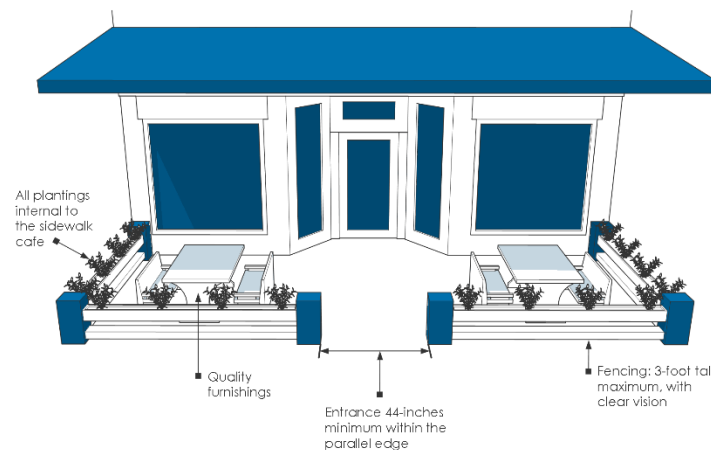


Figure 3-5. Sidewalk Cafe Area Design

#### K. Unlisted Uses Accessory to an Allowed Use<sup>422</sup>

Accessory uses not listed in Table 11-03.1: *Table of Allowed Uses* may be approved if the Planning Director determines that it is secondary and subordinate to and commonly associated with the principal use to which it is accessory.

### 7. Temporary Uses<sup>423</sup>

#### A. General

##### (1) Applicability

- (a) Types of temporary uses and structures that may be approved under the temporary use approval process include:
  - i. Temporary buildings;
  - ii. Temporary display and sale of merchandise;

<sup>422</sup> New, to clarify current practice.

<sup>423</sup> Carried forward current Section 11-06-08.1-3. Did not carry forward standards for temporary parking lots (Section 11-07-03.6) – use removed from Table of Allowed Uses.

- iii. Model homes, trailers, activities, and/or uses incidental to the construction of a building or group of buildings on the same or adjacent premises;
  - iv. Seasonal uses including but not limited to fireworks stands, Christmas tree lots, and produce stands; and
  - v. Other uses that clearly are not associated with a holiday, the growing season, or a construction project may be considered for approval by the Planning Director.
- (b) Uses that shall not be considered for temporary approval include:
- i. Uses that require Planning and Zoning Commission approval if they were a principal or accessory use in that zoning district.
  - ii. Structures or uses that are intended to be placed upon unimproved property, other than seasonal uses or uses incidental to construction.

**(2) General Standards for Temporary Uses**

A temporary use may be approved provided that the use complies with the following standards:

**(a) Compliance with This Code and Other Law**

The use shall be conducted in compliance with regulations administered and enforced by other city, state, and federal agencies.

**(b) Location**

The temporary use shall allow for placement of a temporary structure, vehicle, or sign outside of any clear vision triangle, required setback, required parking stall (except as permitted for temporary, outdoor display sale of merchandise), service drive area, designated trash dumpster location, sidewalk, or any other position on a lot that may interfere with vehicular or pedestrian circulation, or the normal functions of other uses on the property, or be potentially hazardous to the public.

**(c) Duration**

Depending on the nature of the use, and with the exception of produce stands, a Temporary Use Permit shall not exceed 180 consecutive days.

**B. Construction Office<sup>424</sup>**

- (1) This use shall not begin, and any structure for the use shall not be installed, more than 30 calendar days before site construction begins.
- (2) If work on the project has been dormant for a period of six or more months, the trailer shall be removed, unless an extension is granted by the Planning Director based on anticipated construction restart date.
- (3) The office shall not contain sleeping or cooking accommodations.
- (4) The structure shall be set back at least five feet from any lot line and eight feet from the building or structure under construction.

**C. Mobile Food Truck<sup>425</sup>**

- (1) This use shall not operate on any lot where the principal use is a Single-Family Detached Dwelling, Single-Family Attached Dwelling, Duplex, Triplex, or Fourplex Dwelling.

<sup>424</sup> New.

<sup>425</sup> New.

- (2) Each Mobile Food Truck shall comply with all applicable City, State, and federal requirements including those related to licensing and operating in the public right-of-way, and shall be in good operating condition.
- (3) Each Mobile Food Truck may remain in place for up to seven consecutive calendar days, and shall not occupy more than 10 percent of the required off-street parking spaces for the principal use on the subject property, unless an approved Temporary Use Permit provides for a longer time period or occupancy of a larger portion of the property.
- (4) Each Mobile Food Truck operator shall provide trash receptacles sized to meet expected demand and shall remove them after the Mobile Food Truck completes serving food.

**D. Sales and Leasing Office<sup>426</sup>**

Sales and Leasing Offices are permitted in any zoning district on the site of the development for which the sales are taking place. They are permitted to remain on the site of the development from 15 days before homes are offered for sale until 15 days after all homes or home sites within the development are sold.

**E. Seasonal Sales**

- (1) Seasonal Sales require approval from the City Clerk's Office.<sup>427</sup>
- (2) A Temporary Use Permit shall be required and shall be valid for a maximum of 30 consecutive days.<sup>428</sup> Produce stands may be approved annually.<sup>429</sup>
- (3) Sales areas shall be set back a minimum of 15 feet from any public right-of-way.<sup>430</sup>

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<sup>426</sup> New.

<sup>427</sup> Carried forward current Section 11-06-08.3.D.

<sup>428</sup> New.

<sup>429</sup> Carried forward from current Temporary Use Duration standards.

<sup>430</sup> New.



# Chapter 11-04 Development and Design Standards<sup>431</sup>

## Commentary:

**Organization.** This Chapter includes various recommendations and changes to the way Boise regulates development standards and incentives. The Chapter is organized from the “ground up,” beginning with dimensional and subdivision standards, and ending with maintenance and operation. All provisions in this Chapter were modified to align with other changes to the districts, procedures, and development standards.

**Design Standards.** Many Sections of this Chapter have been updated to require compliance with mandatory (not advisory) content from the Citywide and Downtown Design Standards and Guidelines to ensure high quality and compatible development throughout Boise. This mandatory content would now also apply to those properties currently not designated as subject to those two sets of Design Standards.

**Application Materials and Procedures.** Many technical standards and application requirements were removed and should be included on the City’s website. Footnotes indicate where these types of requirements have been removed from the draft.

**New content.** In order to support Blueprint Boise’s goal to support new development design with compact, mixed-use patterns that support transit and reduce carbon emissions, new standards for multi-modal connectivity, adjustments to off-street parking requirements, and enhanced landscaping and exterior lighting regulations are introduced in the draft.

## 11-04-01. Purpose<sup>432</sup>

The purpose of this Chapter 11-04 is to provide standards for developing property or establishing new uses of property within the Boise City to ensure the protection of the health, welfare, safety, and quality of life for local citizens, visitors, and business owners. These provisions address the physical relationship between development and adjacent properties, public streets, neighborhoods, and the natural environment, in order to implement the vision and goals of the Comprehensive Plan.

## 11-04-02. Applicability<sup>433</sup>

### 1. Generally

The requirements of this Chapter 11-04 shall apply to all new development pursuant to Section 11-01-04, *Applicability*, unless otherwise provided in another Section of this Code.

### 2. Activities That Require Compliance with Specific Standards

- A. Construction of any new primary structure on a lot shall require compliance with all standards in this Chapter unless an exception is stated in the Code.
- B. Table 11-04.1 identifies activities that require compliance for conforming sites and structures with specific development standards contained in Chapter 11-04, *Development and Design Standards*. These standards shall not exempt development activity from complying with applicable standards of this Code or any applicable federal, state, or local regulation.

<sup>431</sup> District-Specific Development Standards from current 11-07-09 have been relocated to the Zoning Districts to which they relate in Chapter 11-02. All maps included in this Chapter will be updated to a consistent style at the time of the Adoption Draft.

<sup>432</sup> Current 11-07-01.

<sup>433</sup> New Section clarifying at what point(s) in the development process different development and design standards are reviewed.

- C.** Section 11-05-06, *Nonconformities*, identifies activities that trigger full and limited compliance for lawful nonconforming site and structures with specific development standards contained in Chapter 11-04, *Development and Design Standards*.

**TABLE 11-04.1: DEVELOPMENT STANDARDS COMPLIANCE THRESHOLDS<sup>434</sup>**

| ZONING CODE STANDARD                       | CODE SECTION | SUBDIVISION OF LAND | CONDITIONAL USE PERMIT | ZONING CERTIFICATE | CHANGE OF USE |
|--|--------------|---------------------|------------------------|--------------------|---------------|
| Lot and Building Forms and Dimensions      | 11-04-03     | <b>X</b> [1]        | <b>X</b>               | <b>X</b>           |               |
| Subdivision Standards                      | 11-04-04     | <b>X</b>            |                        |                    |               |
| Sensitive Lands                            | 11-04-05     | <b>X</b>            | <b>X</b>               | <b>X</b>           |               |
| Access and Connectivity                    | 11-04-06     | <b>X</b>            | <b>X</b>               | <b>X</b>           |               |
| Parking and Loading                        | 11-04-07     |                     | <b>X</b>               | <b>X</b>           | <b>X</b>      |
| Landscaping, Fencing, Walls, and Screening | 11-04-08     |                     | <b>X</b>               | <b>X</b>           |               |
| Building Design                            | 11-04-09     |                     | <b>X</b>               | <b>X</b>           |               |
| Exterior Lighting                          | 11-04-010    |                     | <b>X</b>               | <b>X</b>           | <b>X</b>      |
| Signs                                      | 11-04-011    |                     | <b>X</b>               | <b>X</b>           | <b>X</b>      |

Notes:

[1] Review is for lot dimensions only.

### 3. Compliance with Design Standards Required<sup>435</sup>

- A.** In addition to the standards in this Section, all multiple-family, mixed-use, and nonresidential development shall comply with the standards and other mandatory content in the adopted Citywide Design Standards and Guidelines and the Downtown Design Standards and Guidelines.
- B.** The Downtown Design Standards and Guidelines shall apply to all multiple-family, mixed-use, and nonresidential development in the Downtown Planning Area.
- C.** The Citywide Design Standards and Guidelines shall apply to all multiple-family, mixed-use, and nonresidential development outside of the Downtown Planning Area.
- D.** In the event of a conflict between the standards in this Chapter 11-04, *Development and Design Standards* and applicable standards in the Citywide or Downtown Design Standards and Guidelines, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

<sup>434</sup> Table is new.<sup>435</sup> Expands coverage of mandatory standards in these two documents to all covered types of development in their respective geographic areas, including those that are not currently designated for applicability of those standards.

### 11-04-03. Lot and Building Forms and Dimensions

#### Commentary:

This Section contains the dimensional standard for each district in tables based on the district type (e.g. Residential, Mixed-Use, Industrial, and Open Land/Institutional), as well as general rules and exceptions to those dimensional standards.

**Residential zoning districts.** This draft introduces a new summary table for the Residential zoning districts. Major standards that were not carried forward include:

- Separate area and width standards for interior and corner lots, as greater street side setbacks required on corner lots often encourage that result without the need for a separate regulation.
- The maximum dwelling units per acre standards in the R-2 and R-3 districts, as these tend to discourage creative housing design and increase housing costs.

All other changes from current standards are footnoted accordingly.

**Mixed-Use, Industrial, and Open Land and Institutional zoning districts.** This draft introduces a new summary table for the Mixed-Use, Industrial, and Open Land and Institutional zoning districts. Major revisions to current district standards include:

- Maximum lot area per dwelling unit standards were not carried forward, as these tend to discourage creative housing design and increase housing cost
- The lot size, lot width, and frontage standards have been removed because (a) it avoids the remapping of consolidated districts creating lot nonconformities, (b) in general, the market will provide adequately sized lots for new development types, and (c) in some cases they increase housing prices.
- Due to the extent of consolidation of current Office, Commercial, and Special Purpose districts within each of the conversion rules (described in detail in Section 11-02-01), the MX-2, MX-3, and MX-4 districts do not include footnotes describing how the proposed dimensional standards differ from current standards. Generally, the lot and building standards for these districts were drafted to carry forward the more flexible standards available in the applicable current zoning districts to help direct development where there is planned public investment.

**Neighborhood transition standards.** This is a new Section intended to minimize the impacts of multiple-family, mixed-use, and nonresidential development as it transitions to abutting lower-density Residential zoning districts. Standards include building height “step down” requirements, adjusted exterior lighting standards for lighting poles, more restrictive screening requirements, restrictions on the location of parking, loading, and circulation areas, and restrictions on balconies facing Residential zoning districts.

**Exceptions and Encroachments.** This Section includes an expanded list of allowed encroachments within yard areas and removes the requirement to receive a Conditional Use Permit for exceptions to the maximum building height.

**Incentives.** This Section includes new incentives to promote both affordable and sustainable housing development, which are intended to replace the Affordable Housing Bonus ordinance adopted on January 12, 2021.

## 1. General Lot and Form Standards

### A. Access to Public Street<sup>436</sup>

No building shall be constructed or erected upon any parcel not abutting a public street, or having a permanent access easement to a public street that was of record prior to the Effective Date.

### B. Construction Over Platted Lot Lines<sup>437</sup>

Construction over platted lot lines of multiple whole lots in any zoning district is only allowed if:

- (1) Prior to issuance of a Building Permit, the applicant submits to the City a copy of a recorded Notice of Buildable Parcel and a map describing the entirety of the platted lots upon which construction is proposed to take place; and<sup>438</sup>
- (2) Prior to construction, the applicant submits to the City a copy of a recorded Vacation Plat of any platted or recorded easements in the area of proposed construction or the written permission of the easement holder to complete such construction without vacating the easement.

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## 2. Dimensional Standards Summary Tables<sup>439</sup>

All development and redevelopment shall comply with the standards in this Section 11-04-03.2, *Dimensional Standards Summary Tables* unless another Section of this Code provides an alternative standard for a particular use, layout, or development type. Sections of this Code that may provide alternative standards include but are not limited to Section 11-03-03, *Use-Specific Standards*.

### A. Residential Districts

#### (1) Dimensional Standards

- (a) All development in Residential zoning districts shall comply with the standards in Table 11-04.2 unless those standards are adjusted pursuant to a provision of this Section 11-04-03, *Lot and Building Forms and Dimensions* or another provision of this Code.
- (b) All structures that were legally constructed<sup>440</sup> and that complied with applicable dimensional standards prior to the Effective Date, but that no longer comply with the dimensional standards in this Section 11-04-03.2.A due to inclusion in a consolidated zoning district with different dimensional standards shall be considered conforming structures under this Code.

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<sup>436</sup> Current 11-07-02.1.A. Requirement for 30 feet of street frontage and lot width was deleted to avoid future inconsistencies with Tables 11-04.2 and 11-04.3.

<sup>437</sup> Current 11-07-02.2. Wording revised for clarity.

<sup>438</sup> Current requirement to submit a deed describing the lots by metes and bounds was deleted as unnecessary.

<sup>439</sup> Consolidates dimensional standards tables from current 11-04.

<sup>440</sup> "Constructed" replaces "established" to clarify that this provisions applies to structures and not uses.

**TABLE 11-04.2: RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS<sup>441</sup>**

N/A = Not Applicable

| NEW ZONING DISTRICT                      | R-1A       | R-1B                  | R-1C                        | R-2  | R-3  |
|--|------------|-----------------------|-----------------------------|--|--|
| CURRENT ZONING DISTRICT                  | R-1A       | R-1B                  | R-1C                        | R-1M&R-2   | R-3  |
| <b>Lot Standards [1]</b>                 |            |                       |                             |  |  |
| Lot Area (minimum) [2]                   | 20,000 sf. | 9,000 sf.             | 3,500 sf.<br><sup>442</sup> | Residential Uses, Except Multifamily 2,500 sf.<br>All Other Uses 5,000 sf. | Single-Family Attached 1,500 sf.<br>All Other Residential Uses 2,000 sf.<br>All Other Uses 5,000 sf. |
| Lot Width (average)                      | 75 ft.     | 50 ft. <sup>443</sup> | 25 ft. <sup>444</sup>       | Residential Uses, Except Multifamily 20 ft.<br>All Other Uses 40 ft.       | Single-Family Attached 15 ft.<br>All Other Residential Uses 20 ft.<br>All Other Uses 40 ft.          |
| Street Frontage (minimum) <sup>445</sup> | N/A        | N/A                   | N/A                         | N/A  | N/A  |
| Open Space (minimum)                     | N/A        | N/A                   | N/A                         | 10% of lot <sup>446</sup>  | 10% of lot <sup>447</sup>  |
| Density (maximum, units/acre) [2][3]     | 2.1        | 4.8                   | 12.4 <sup>448</sup>         | N/A  | N/A  |
| <b>Setbacks (Minimum)</b>                |            |                       |                             |  |  |
| Front                                    |            |                       |                             |  |  |
| Front Entry Garage                       | 20 ft.     | 20 ft.                | 20 ft.                      | 20 ft. <sup>449</sup>  | 20 ft. <sup>450</sup>  |
| Remainder of Structure                   | 15 ft.     | 15 ft.                | 15 ft.                      | 10 ft.   | 10 ft.   |
| Street Side [4]                          |            |                       |                             |  |  |

<sup>441</sup> Table is new, with changes as noted. Separate area and width standards for interior and corner lots were not carried forward, as greater street side setbacks required on corner lots often encourage that result without the need for a separate regulation. Maximum dwelling units per acre standards were not carried forward as these limitations tend to discourage creative housing design and increase housing costs.

<sup>442</sup> Revised from 5,000 sq. ft. in current Code to promote affordability.

<sup>443</sup> Reduced from current 100 ft./75 ft. minimum in R-1A/R-1B to promote housing diversity and affordability.

<sup>444</sup> Reduced from current 50 ft. to promote housing affordability.

<sup>445</sup> Most minimum residential frontage requirements have not been carried forward to promote housing diversity and affordability.

<sup>446</sup> Standard extended to current R-2 lands.

<sup>447</sup> New.

<sup>448</sup> Increased from current 8 units/acre.

<sup>449</sup> 20 ft. front and side street setbacks for garages accessed by those streets now apply to both districts.

<sup>450</sup> Clarifies that 20 ft. street setbacks apply to garages accessed by either the front or side street.

**TABLE 11-04.2: RESIDENTIAL DISTRICT DIMENSIONAL STANDARDS<sup>441</sup>**

N/A = Not Applicable

| NEW ZONING DISTRICT       | R-1A   | R-1B   | R-1C                  | R-2                      | R-3                       |
|---------------------------|--------|--------|-----------------------|--------------------------|---------------------------|
| CURRENT ZONING DISTRICT   | R-1A   | R-1B   | R-1C                  | R-1M&R-2                 | R-3                       |
| Side Street Entry Garage  | 20 ft. | 20 ft. | 20 ft.                | 20 ft.                   | 20 ft.                    |
| Remainder of Structure    | 20 ft. | 20 ft. | 15 ft. <sup>451</sup> | 10 ft.                   | 10 ft.                    |
| Interior Side [5]         | 10 ft. | 10 ft. | 5 ft.                 | 5 ft. <sup>452</sup>     | 5 ft. <sup>453</sup>      |
| Rear                      | 20 ft. | 20 ft. | 15 ft.                | 15 ft.[6] <sup>454</sup> | 15 ft. [6] <sup>455</sup> |
| <b>Height (Maximum)</b>   |        |        |                       |                          |                           |
| Building Height (maximum) | 35 ft. | 35 ft. | 40 ft. <sup>456</sup> | 45 ft. <sup>457</sup>    | 50 ft. <sup>458</sup>     |

**Notes:**

[1] All Small Lots shall meet the standards in Section 11-04-03.3, *Residential Small Lots*.

[2] Minimum lot area and maximum density requirements shall not apply to new Accessory Dwelling Units or Duplex Dwellings.

[3] In the R-1A, R-1B, and R-1C zoning districts, the maximum density requirement shall not apply to properties using incentives earned pursuant to Section 11-04-03.7.D.

[4] Where street side setback abuts front setback of lot to the rear, street side setback shall be equal to or greater than the front setback of the abutting lot.<sup>459</sup>

[5] No interior side setback is required between Single-Family Attached Dwellings.<sup>460</sup>

[6] Reduced to 5 ft. when alley present.<sup>461</sup>

**B. Mixed-Use, Industrial and Open Land and Institutional Districts**

- (1) All development in Mixed-Use, Industrial, or Open Land and Institutional zoning districts shall comply with the standards in Table 11-04.3 unless those standards are adjusted pursuant to provision of this Section 11-04-03, *Lot and Building Forms and Dimensions* or another provision of this Code.

<sup>451</sup> Reduced from 20 ft. for portions of the building other than side street-accessed garages.

<sup>452</sup> 0 ft. interior standard not carried forward, but still applies to attached single-family development.

<sup>453</sup> Additional 5 setbacks for buildings over 1 story not carried forward.

<sup>454</sup> Height-based rear not carried forward.

<sup>455</sup> Additional 5 ft. setback for buildings over 1 story was not carried forward. Additional setback for buildings over two stories was reduced from 10 ft.

<sup>456</sup> Increased from current 35 ft.

<sup>457</sup> Increased from current 35 ft.

<sup>458</sup> Increased from current 45 ft.

<sup>459</sup> New.

<sup>460</sup> New, to clarify current practice.

<sup>461</sup> Reduced alley setback extended to current R-2 lands.

**TABLE 11-04.3: MIXED-USE, INDUSTRIAL, AND OPEN LAND AND INSTITUTIONAL DISTRICT DIMENSIONAL STANDARDS<sup>462</sup>**

See Section 11-04-03.3 for additional standards for residential uses on smaller lots in several districts.

N/A = Not Applicable

| NEW ZONING DISTRICT                 | MX-1  | MX-2                    | MX-3                    | MX-4                    | MX-5                    | MX-U              | I-1                     | I-2                     | O-1        | O-2        | O-3            |
|-------------------------------------|---|-------------------------|-------------------------|-------------------------|-------------------------|-------------------|-------------------------|-------------------------|------------|------------|----------------|
| CURRENT ZONING DISTRICT             | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, TI-1<br>(SEE 11-02-01.1) |                         |                         |                         |                         | U                 | M-1, T-2                | M-2                     | A-1        | A-1        | A-2            |
| Lot Standards <sup>463</sup>        |   |                         |                         |                         |                         |                   |                         |                         |            |            |                |
| Lot Area (minimum)                  | N/A   | N/A                     | N/A                     | N/A                     | N/A                     | N/A               | N/A                     | N/A                     | 1 acre     | N/A        | N/A            |
| Lot Width (average)                 | N/A   | N/A                     | N/A                     | N/A                     | N/A                     | N/A               | N/A                     | N/A                     | N/A        | N/A        | N/A            |
| Street Frontage (minimum)           | N/A   | N/A                     | N/A                     | N/A                     | N/A                     | N/A               | N/A                     | N/A                     | N/A        | N/A        | N/A            |
| Floor Area Ratio (maximum )         | N/A   | N/A                     | N/A                     | N/A                     | N/A                     | N/A               | N/A                     | N/A                     | N/A        | N/A        | N/A            |
| Density (maximum)                   | N/A   | N/A                     | N/A                     | N/A                     | N/A                     | N/A               | N/A                     | N/A                     | N/A        | N/A        | 1 unit/4 acres |
| Building Setbacks (Minimum/Maximum) |   |                         |                         |                         |                         |                   |                         |                         |            |            |                |
| Front                               | Min 0 ft.<br>Max 20 ft.   | Min 0 ft.<br>Max 20 ft. | Min 0 ft.<br>Max 20 ft. | Min 0 ft.<br>Max 20 ft. | Min 10 ft.              | Min 20 ft.<br>[1] | Min 20 ft.              | Min 20 ft.              | Min 20 ft. | Min 20 ft. | Min 20 ft.     |
| Street Side                         | Min 0 ft.<br>Max 20 ft.   | Min 0 ft.<br>Max 20 ft. | Min 0 ft.<br>Max 20 ft. | Min 0 ft.<br>Max 20 ft. | Min 0 ft.<br>Max 20 ft. | Min 15 ft.<br>[1] | Min 15 ft.              | Min 15 ft.              | Min 20 ft. | Min 20 ft. | Min 20 ft.     |
| Interior Side                       | Min 0 ft.   | Min 0 ft.               | Min 0 ft.               | Min 0 ft.               | Min 0 ft.               | N/A               | Min 0 ft.<br>[2]<br>[3] | Min 0 ft.<br>[2]<br>[3] | Min 20 ft. | Min 20 ft. | Min 20 ft.     |
| Rear                                | Min 10 ft.  | Min 10 ft.              | Min 10 ft.              | Min 10 ft.              | N/A                     | Min 20 ft.<br>[1] | Min 0 ft.<br>[2]<br>[3] | Min 0 ft.<br>[2]<br>[3] | Min 60 ft. | Min 60 ft. | Min 60 ft.     |
| Parking Setbacks (Minimum)          |   |                         |                         |                         |                         |                   |                         |                         |            |            |                |
| Front                               | 20 ft.  | 10 ft.                  | 10 ft.                  | 10 ft.                  | 10 ft.                  | 10 ft.<br>[1]     | 10 ft.                  | 15 ft.                  | 20 ft.     | 20 ft.     | 20 ft.         |
| Street Side                         | 20 ft.  | 10 ft.                  | 10 ft.                  | 10 ft.                  | 10 ft.                  | 10 ft.<br>[1]     | 10 ft.                  | 15 ft.                  | 10 ft.     | 10 ft.     | 10 ft.         |
| Interior Side                       | 5 ft.   | 5 ft.                   | 5 ft.                   | 5 ft.                   | 5 ft.                   | 10 ft.<br>[1]     | 0 ft.<br>[3]            | 0 ft.<br>[3]            | 10 ft.     | 10 ft.     | 10 ft.         |

<sup>462</sup> Table is new. Maximum lot area per dwelling unit standards were not carried forward as these limitations tend to discourage creative housing design and increase housing costs. Because of revised consolidations of existing zoning districts, exact comparisons of these dimensions with those applicable in the current zoning districts would be very complex, and those individual changes have not been footnoted.

<sup>463</sup> Current maximum total lot coverage and building lot coverage limits were deleted as unnecessary in these districts.

**TABLE 11-04.3: MIXED-USE, INDUSTRIAL, AND OPEN LAND AND INSTITUTIONAL DISTRICT DIMENSIONAL STANDARDS<sup>462</sup>**

See Section 11-04-03.3 for additional standards for residential uses on smaller lots in several districts.

N/A = Not Applicable

| NEW ZONING DISTRICT                          | MX-1  | MX-2   | MX-3   | MX-4   | MX-5   | MX-U          | I-1      | I-2    | O-1    | O-2    | O-3    |
|--|---|--------|--------|--------|--------|---------------|----------|--------|--------|--------|--------|
| CURRENT ZONING DISTRICT                      | R-O, N-O, L-O, PC, H-S, C-1, C-2, C-3, C-4, C-5, TI-1<br>(SEE 11-02-01.1) |        |        |        |        | U             | M-1, T-2 | M-2    | A-1    | A-1    | A-2    |
| Rear   | 5 ft.   | 5 ft.  | 5 ft.  | 5 ft.  | 5 ft.  | 10 ft.<br>[1] | 0 ft.    | 0 ft.  | 10 ft. | 10 ft. | 10 ft. |
| Any Yard Adjacent to Interstate or Connector | 10 ft.  | 20 ft. | 20 ft. | 20 ft. | 10 ft. | 10 ft.<br>[1] | 10 ft.   | 10 ft. | 20 ft. | 20 ft. | 20 ft. |
| <b>Height (Maximum)</b>                      |   |        |        |        |        |               |          |        |        |        |        |
| Building Height                              | 45 ft.  | 45 ft. | 60 ft. | 60 ft. | N/A    | [4]           | 55 ft.   | 55 ft. | 45 ft. | 45 ft. | 45 ft. |

**Notes:**

[1] Only applies from outer edge of BSU campus boundary buffers.

[2] 50 ft. minimum for all development of three or more acres, when adjacent to a Residential zoning district.

[3] 15 ft. minimum, when adjacent to a Residential zoning district.

[4] As noted in the BSU campus boundary buffers.

### 3. Residential Small Lots<sup>464</sup>

#### A. Purpose

The purpose of this Section is to ensure that new residential development on lots less than 3,500 square feet and Substandard Original Lots of Record are compatible in character and scale with established housing.

#### B. Applicability

(1) The standards in this Section 11-04-03.3 shall apply to new dwellings and additions to existing dwellings:

(a) On lots less than 3,500 square feet created after the Effective Date in the R-2 and R-3 zoning districts; and<sup>465</sup>

(b) On Substandard Original Lots of Record existing on the Effective Date in the R-1A, R-1B, R-1C, R-2, or R-3 zoning districts.<sup>466</sup>

<sup>464</sup> Carried forward current Section 11-06-03.3. The landscaping standards in current 11-06-03.3.D(6) have been deleted. All new dwellings and remodels are subject to the general landscaping and buffering standards of Section 11-04-08. Retitled to Residential Small Lots and expanded to cover lots under 3,500 square feet that are not substandard lots of record. Requirement for Neighborhood Meeting was not carried forward.

<sup>465</sup> Since minimum lot sizes for R-2 and R-3 districts are less than 3,500 feet, clarified that these standards apply to any applicable new lots created.

<sup>466</sup> Deleted applicability in the R-O, N-O, L-O, C-1, C-2, C-3, and A districts at staff's request, because there are no covered lots in some of those districts and to reflect current practice. Deleted specific language describing lot sizes and widths as this information is in the definition of "Substandard Original Lot of Record." Clarified language.



- (2) The Historic Preservation Commission may modify the regulations for Small Lots in order to issue a certificate of appropriateness.
- (3) These standards do not apply to lots that are part of a Planned Unit Development and do not supersede any note recorded on a Subdivision Plat.
- (4) In the event of a conflict between this Section 11-04-03.3 and any other standard applied to new dwellings and remodels of existing dwellings by other Sections of this Code, the standards in this Section 11-04-03.3 shall apply.

#### **C. General Provisions**

##### **(1) Minimum Lot Dimensions<sup>467</sup>**

- (a) The minimum lot width for a Single-Family Detached Dwelling<sup>468</sup> with alley access is 25 feet for interior lots and 35 feet for corner lots.
- (b) The minimum lot width for a Single-Family Detached Dwelling without alley access is 37.5 feet for all lots.

##### **(2) Design Review<sup>469</sup>**

A development containing four or fewer dwelling units on up to four contiguous Small Lots shall be subject to Minor Project Design Review pursuant to Section 11-05-05.2.C. A development of five or more contiguous Small Lots shall be subject to Major Project Design Review pursuant to Section 11-05-05.3.C and shall also comply with the standards and guidelines in this Section 11-04-03.3.

#### **D. Development Standards**

##### **(1) Setbacks**

###### **(a) Front**

- i. The front yard setback for livable space and porches shall be within five feet of the average of the front yard setbacks of adjoining properties, but not less than 10 feet or more than 20 feet.
- ii. The front yard setback for parking shall be a minimum of 20 feet.<sup>470</sup>
- iii. Lots developed simultaneously shall provide varying setbacks.

###### **(b) Side**

Interior side setbacks shall comply with the requirement for the zoning district and street side yard setbacks shall be 15 feet for livable space and 20 feet for parking that takes access from a public street or 15 feet for parking that takes access to the alley, unless one of the following is applied:

###### **i. Common Lot Line Attached Units**

When the building is located on a common lot line, the remaining side yard setback shall comply with the requirement for the zoning district.

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<sup>467</sup> Minimum widths for single-family attached and duplex lots were not carried forward.

<sup>468</sup> Replaced "single-family residence."

<sup>469</sup> Size threshold changed from three lots to four, for internal consistency. Design Review provisions have been relocated to Chapter 11-05, Administration & Procedures.

<sup>470</sup> Maximum parking setback of 20 feet was not carried forward as unnecessary.

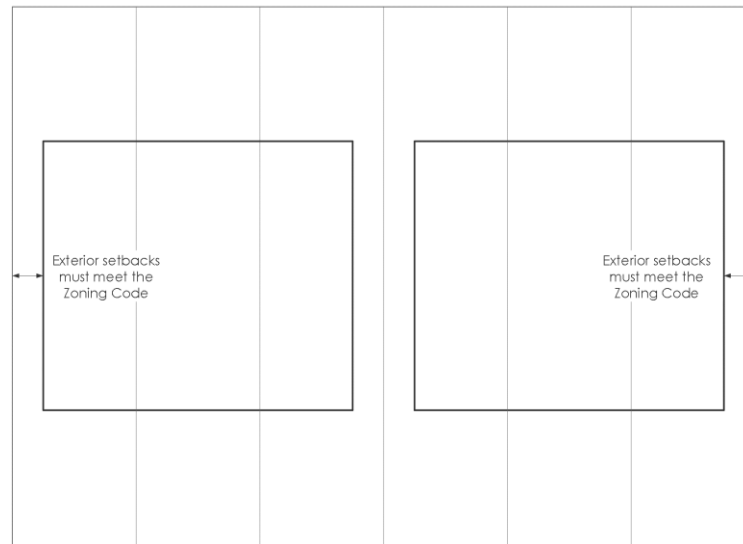


Figure 4-1. Common Lot Line Attached Units

## ii. Detached Units On Contiguous Lots

When two or more Single-Family Detached Dwelling units are proposed on contiguous 25 foot lots, the interior side yard setbacks may be reduced to three feet interior to the development, provided the setbacks exterior to the development comply with the setbacks required by the zoning district.

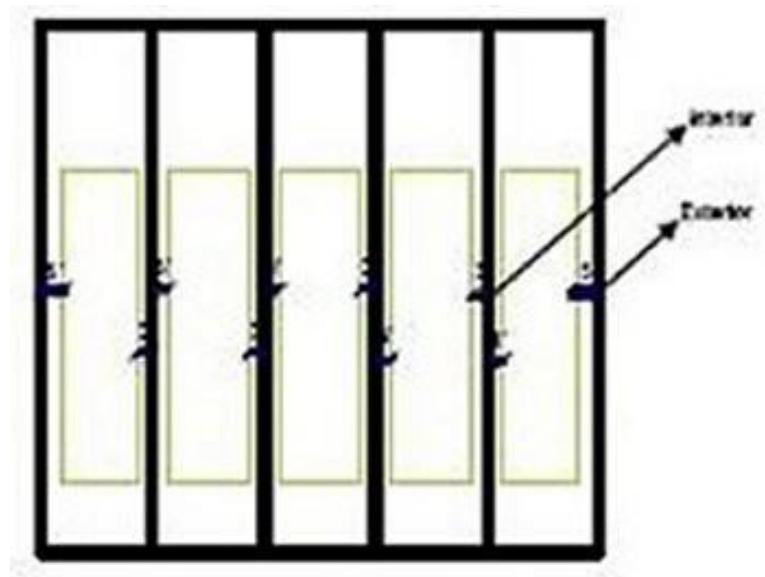


Figure 4-2. Detached Units on Continuous Lots<sup>471</sup>

## iii. Attached Buildings of Two Stories or More in the R-1C Zoning District

Two-story attached buildings in the R-1C zoning district shall have a minimum side yard setback of five feet for the first story and a minimum of eight feet for

<sup>471</sup> Figure will be updated at the time of Adoption Draft.

the second story from the interior side property line, with bay windows, pop-outs or other architectural appurtenances allowed at the five foot setback line. All other zoning districts must meet their side setback requirements.



Figure 4-3. Two-Story Attached Units on Continuous Lots

#### iv. Garage

A single story detached garage no larger than 500 square feet, accessed from an alley, may have a three foot interior side setback. The minimum exterior dimensions for a two car garage shall be 19 feet by 20 feet.

#### (c) Rear

The rear yard setback shall be as required by the zoning district in which the Small Lot is situated.

#### (2) Building Height<sup>472</sup>

The maximum height of permitted primary buildings shall comply with Table 11-04.4.

| TABLE 11-04.4: MAXIMUM BUILDING HEIGHTS OF PRIMARY BUILDINGS                      |  |                               |
|---|--|-------------------------------|
| HEIGHT OF BUILDING ON LOTS ABUTTING LOT LINE (S) OF SUBJECT LOT                   |  | MAXIMUM HEIGHT ON SUBJECT LOT |
| INTERIOR LOT  | CORNER LOT   |                               |
| Building(s) on one or both lots abutting side lot lines are less than 25 ft. tall | Building on single lot abutting side lot line is less than 25 ft. tall | 25 ft.                        |
| Building(s) on both lots abutting side lot lines are 25 ft. or taller             | Building on single lot abutting side lot line is 25 ft. or taller      | 30 ft.                        |
| Building(s) on both lots abutting side lot lines are 30 ft. or taller             | Building on single lot abutting side lot line is 30 ft. or taller      | 35 ft.                        |
| Building(s) on both lots abutting side lot lines are 35 ft. or taller             | Building on single lot abutting side lot line is 35 ft. or taller      | 40 ft.                        |

<sup>472</sup> New contextual height standards.

| TABLE 11-04.4: MAXIMUM BUILDING HEIGHTS OF PRIMARY BUILDINGS          |   |  |
|---|---|--|
| HEIGHT OF BUILDING ON LOTS ABUTTING LOT LINE (S) OF SUBJECT LOT       |   | MAXIMUM HEIGHT ON SUBJECT LOT                            |
| INTERIOR LOT  | CORNER LOT  |  |
| Building(s) on both lots abutting side lot lines are 40 ft. or taller | Building on single lot abutting side lot line is 40 ft. or taller | Height of tallest building on lot abutting side lot line |

### (3) Building Size

Residential floor area shall not exceed 55 percent of the effective lot area on lots.

### (4) Private Open Space

- (a) All lots must provide a minimum of 375 square feet of private open space in the rear yard.
- (b) This open space shall be a minimum of 15 feet by 25 feet and can include the area within required setbacks.
- (c) A minimum of 10 feet by 15 feet of the private open space shall be open to the sky. Covered rear porches are allowed to be calculated as part of the private open space.

### (5) Public Right-Of-Way Improvement<sup>473</sup>

- (a) All new dwellings (excluding remodels) shall provide a five foot detached concrete sidewalk with curb and gutter.<sup>474</sup>
- (b) Where driveways access a public street, a paved driveway apron that extends to the edge of street pavement of the roadway or alley shall be provided unless a waiver or variation on some or all of this requirement is granted by the Planning Director based upon site-specific conditions such as documented drainage problems that might result from the improvement of the roadway.<sup>475</sup>
- (c) Dirt or gravel strips in the front yard or undeveloped public street right-of-way shall not be permitted. Irrigated landscaping shall be provided in these areas through license agreements with ACHD. Bonding for landscape improvements may be allowed based on weather related constraints. If ACHD denies the necessary license agreement, the requirement for landscaping shall be waived.

### (6) Parking<sup>476</sup>

- (a) Vehicular access and parking shall comply with the following standards:
  - i. If alley access is available, all access shall be taken from the alley. One space shall be provided with 22 feet of back up space.<sup>477</sup>
  - ii. If alley access is not available and an attached garage is provided, the garage design shall include varied rooflines, dormers within the roofline or other

<sup>473</sup> ACHD-approved adjustments for insufficient roadway width, and requirement to complete or bond for required right-of-way improvements, removed from this Section and made generally applicable.

<sup>474</sup> Clarified sidewalks shall be detached.

<sup>475</sup> Deleted "the lack of adjacent improvements and/or."

<sup>476</sup> Reduced parking requirement of 1 space per unit now appears in the Parking chapter of the Code.

<sup>477</sup> Reduced from current two space requirement.

architectural treatments that will avoid the appearance of garage domination of the front or side building facade. The face of the garage shall be set back 20 feet from the street from which access is taken. Driveways for attached garages shall not exceed 20 feet in width, or 50 percent of the width of the building facade on which the garage is located, whichever is less.<sup>478</sup>

- iii. If alley access is not available and unenclosed or uncovered parking is provided, the driveway and parking area shall not exceed 20 feet in width, or 50 percent of the width of the building facade on which the garage is located, whichever is less.<sup>479</sup>
- iv. The use of a 10 foot wide shared driveway providing access to rear yard garages attached with a common wall on the property line is allowed and encouraged for contiguous lots of 35 feet in width or greater.

## **(7) Alternative Building Arrangements**

### **(a) Zero Lot Line Option**

If multiple Single-Family Detached Dwelling units and garages are constructed on contiguous lots, a zero lot line development is permitted provided that the design maintains full required setbacks from adjacent non-project lots. The zero lot line units remain subject to the general design guidelines in Subsection E, below, and are subject to Minor Project Design Review or Major Project Design pursuant to Sections 11-05-05.2.C or 11-05-05.3.C, depending on the size of the project.<sup>480</sup>

### **(b) Attached Units**

- i. Single-Family Attached Dwelling units shall be organized in structures containing a maximum of five units<sup>481</sup> in order to be similar in length to a standard width Single-Family Detached Dwelling, to the maximum extent practicable. The attached units remain subject to the general design criteria in Subsection E, below.
- ii. The applicant or builder shall obtain the City Attorney's Office approval of easement agreement(s) for the use and maintenance of common facilities such as driveways, parking sites, and common party walls. The City Attorney's Office shall approve all easement agreements.<sup>482</sup> The agreement shall be recorded in the official records of Ada County prior to submission of plans for a Building Permit.
- iii. Adjustments to lot lines and reduction in the number of lots within the same parcel are subject to review and approval pursuant to all applicable standards in this Code. The applicant shall obtain approval from the City and record any lot line adjustments or reduction in lots with the County Recorder prior to submission for a Building Permit.

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<sup>478</sup> Revised to limit garage width to 50% of building facade.

<sup>479</sup> New.

<sup>480</sup> Design Review procedures relocated to Chapter 11-05, Administration & Procedures.

<sup>481</sup> Increased from two or three.

<sup>482</sup> Deleted "within 10 calendar days of submission. Any revised easement agreement shall be considered a new submission."

### E. Design Guidelines<sup>483</sup>

In addition to the development standards above, the general design guidelines below shall also apply to developments on Small Lots. Design review shall take into account the location and design of adjacent buildings, landscaping, and public right-of-way improvements, and shall comply with the following criteria to the maximum extent practicable:

#### (1) Orientation

All buildings shall be oriented towards a public street, except when buildings cannot be oriented toward a public street due to inadequate street frontage. In this case, buildings shall be oriented towards a private street or lane conforming to City standards.

#### (2) Front Facade Design Requirements

- (a) All dwelling units<sup>484</sup> shall have a front door that faces the street. When a unit is built on a corner lot, the main entrance shall have the door facing the dominant street.
- (b) For dwelling units with front-loaded garages, a garage door shall not count toward window/opening requirements. The garage door shall also have design elements such as panels, windows, trim features, cross members, or other features as determined appropriate by the applicable Design Review process.<sup>485</sup>
- (c) Portions of the facade occupied by garage doors shall comply with Section 11-04-03.3.D(6) *Parking* above.
- (d) Non-attached dwelling units shall provide a facade design that differs from the facade design on adjacent units; however, articulated designs may repeat on non-contiguous lots. Required facade elements shall, in addition to complying with design guidelines in (a) and (b), above, include a minimum of two of the following: multi-paned windows, varied roof lines, bay windows, wainscot, covered front door, or other elements as approved by the applicable Design Review process that create a unique facade.
- (e) Attached units shall provide modulation and architectural design features to prevent flat facade wall planes.
- (f) Building design shall incorporate materials such as brick, stone, stucco, tile, and wood for 35 percent of the facade and second story elements. The presence of such materials on nearby homes shall be reviewed as a guide for appropriate materials to be used on the new dwelling.
- (g) Rain gutters shall be provided on the side elevations of all structure to aid in site drainage. Gutters shall direct water to the front or rear of the lot.

#### (3) Driveways

Where front yard driveways are permitted for access to a single garage, the driveway may be designed with two concrete wheel strips or grass pavers separated by vegetation.

<sup>483</sup> Wording revised for clarity. Several vague "encouraged" standards have been replaced by "shall and "to the maximum extent practicable". Detailed building height limits simplified and relocated.

<sup>484</sup> Revised from "Homes".

<sup>485</sup> Deleted requirement for "A prominent front porch at least six feet in depth and with at least 25 percent of the front face facade comprised of windows may be considered in lieu of a street-facing front door."

#### 4. Neighborhood Transition Standards<sup>486</sup>

In order to facilitate a predictable transition from multiple-family, mixed-use, and nonresidential development on abutting lower-density residential zoning districts, all development listed in Subsection (A) below shall comply with all standards Subsections (B), (C), (D), and (E) below. In case of conflict between the standards in this Section 11-04-03.4 and any other standard in this Code, the standards in this Section 11-04-03.4 shall apply.

##### A. Applicability

The standards in this Section 11-04-03.4 shall apply to all development or redevelopment after the Effective Date on lots located in the R-2 or R-3 zoning districts, or any Mixed Use, Industrial, or Open Land and Institutional zoning district that have a side or rear lot line abutting a lot in the R-1A, R-1B or R-1C zoning district.

##### B. Building, Balcony, and Parking Area Setbacks

- (1) The primary building shall be set back from each side or rear property line abutting an R-1A, R-1B, or R-1C lot by at least 20 feet or the minimum distance required in the district where the primary building is located, whichever is greater;
- (2) Any parking area, Drive-Through Facility, or vehicle circulation driveway shall be set back from each side or rear property line abutting an R-1A, R-1B, or R-1C lot by at least 10 feet or the minimum parking setback distance in the district where the primary building is located, whichever is greater; and
- (3) No external balcony shall be located on the first or second story above ground level of any facade of the primary building facing and located within 100 feet of an R-1A, R-1B, or R-1C lot.

##### C. Building Height Stepdown

Each primary building constructed after the Effective Date with a height greater than 35 feet shall reduce the visual impact of the building when viewed from each abutting a R-1A, R-1B, or R-1C lot by limiting the maximum height of the building so that:

- (1) It does not exceed 35 feet at the minimum building setback line from the R-1A, R-1B, or R-1C lot; and
- (2) It rises no more than one foot in vertical height for each two feet of horizontal distance until it reaches the maximum height permitted in the zoning district where the building is located.

##### D. Lighting Height

In addition to complying with all standards in Section 11-04-010, *Exterior Lighting*, no outdoor pole or wall mounted light fixture located within 50 feet of any side or rear lot line abutting an R-1A, R-1B, or R-1C zoning district shall be mounted more than 20 feet above grade.

##### E. Screening and Buffering

In addition to complying with the standards in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*, when the standards of that Section require or allow the construction of an opaque wall or fence, the wall or fence shall be set back from the property line in order to allow the required landscaping to be installed on the side of the fence facing the R-1A, R-1B,

<sup>486</sup> New, replaces transition standards applicable to multifamily development in current 11-06-03.2.E.

or R-1C zoning district. The required landscaping shall be maintained by the property owner required to install the landscaping.

## 5. Other Form Standards<sup>487</sup>

### A. District-Specific Form Standards

- (1) All development shall comply with all Form, Layout, and Design Standards applicable to the MX-1, MX-2, MX-3, MX-4, and MX-5 zoning districts in Sections 11-02-03.1, 11-02-03.2, 11-02-03.3, 11-02-03.4, and 11-02-03.5 respectively.
- (2) All development shall comply with all standards related to building or development form in each overlay district listed in Section 11-02-07, *Overlay Districts*.

### B. Use-Specific Form Standards

All development shall comply with all Use-Specific Standards related to building or development form applicable to a specific use in Section 11-03-03, *Use-Specific Standards*.

## 6. Exceptions and Encroachments<sup>488</sup>

### A. Permitted Encroachments into Setbacks

Certain building and site features listed in Table 11-04.5 below may extend into the required building setbacks limits listed in Section 11-04-03, *Lot and Building Forms and Dimensions* as shown in Table 11-04.5 below.

| TABLE 11-04.5: PERMITTED ENCROACHMENTS INTO REQUIRED SETBACKS <sup>489</sup>  |   |
|---|---|
| STRUCTURE OR FEATURE  | CONDITIONS OR LIMITS  |
| Encroachments into Required Setbacks <sup>490</sup>   |   |
| Accessory renewable energy facility <sup>491</sup>  | Permitted in side or rear setbacks in Residential and Mixed-Use districts, and in any setback in Industrial and Open Land and Institutional districts, but not closer than two feet to any property line. |
| Balcony without roof  | May extend up to four feet into any rear setback, provided the support structures are located outside of rear setback.  |
| Chimneys no more than 8 feet in width   | May extend up to two feet into any setback.   |
| Covered front porches a minimum of 5 feet in depth for Single-Family Detached and Attached, Duplex, Triplex, or Fourplex Dwellings <sup>492</sup> | May encroach into required front setback up to five feet. The encroachment shall not interfere with street trees, sidewalks, or required landscaping.   |
| Detached accessory structures <sup>493</sup>  | Exempt from rear yard and interior side setbacks.   |
| ≤ 120 square feet in area and < 7 feet in height [1]  |   |

<sup>487</sup> New.

<sup>488</sup> Consolidates permitted encroachments through height limits and into setbacks from Sections 11-04-013.A. and 4, with changes as noted.

<sup>489</sup> Table is new; changes to specific allowances are noted.

<sup>490</sup> All allowances for features except unroofed balcony are new, except as noted.

<sup>491</sup> New.

<sup>492</sup> New in Consolidated Draft. Relocated from current 11-06-03.1.B(1)(c)i.

<sup>493</sup> Current 11-06-07.3.B.(7)(a) and (b). Did not carry forward current 11-06-07.3.B(7)(c) nor the R-O specific setback encroachments and allowance for modular facade encroachments in current Section 11-04-04.1.C.



**TABLE 11-04.5: PERMITTED ENCROACHMENTS INTO REQUIRED SETBACKS<sup>489</sup>**

| STRUCTURE OR FEATURE   | CONDITIONS OR LIMITS  |
|--|---|
| <b>Encroachments into Required Setbacks<sup>490</sup></b>  |   |
| 121-500 square feet in area and < 14 feet in height [2]  | In the R-1A, R-1B, R-1C, may have reduced interior side yard setbacks of 3 feet and rear yard setbacks of 5 feet. <sup>494</sup>  |
| < 1,000 square feet in area and <22 feet in height [2] <sup>495</sup>  | Exempt from rear and side yard setbacks abutting an alley.  |
| Fencing, landscaping, walkways, and accessible ramps <sup>496</sup>  | Exempt from setback requirements.   |
| Little library book exchange boxes <sup>497</sup>  | Exempt from front and side yard setbacks in Residential and Mixed-Use zoning districts, provided the portion of the yard occupied by the box does not exceed two square feet. |
| Masonry ledges, window-sills, belt courses, fireplaces, cantilevers, architectural features, cornices, eaves, canopies, and roof overhangs that do not increase the volume of space enclosed by the building <sup>498</sup>  | May extend up to two feet into any setback.   |
| Open post patio/shade covers, pergolas, and similar structures under 250 feet in area and less than 15 feet in height and attached to a residential dwelling [3]   | May have rear yard setbacks of nine feet in any zoning district. For corner lots, a minimum 15 foot side yard street setback is required.                                     |
| Raised garden beds no more than three feet in height <sup>499</sup>  | Exempt from all setback requirements.   |
| Stair, railing, and landing without roof   | May extend up to three feet into front or side setback or up to six feet into rear setback.   |
| Window wells   | May extend up to three feet into any setback.   |
| <b>Notes:</b><br>[1] Height as measured from grade to the wall under the roof.<br>[2] Applies to alley-loaded parking structures only. Height as measured from grade to the peak of the roof.<br>[3] Structures that use the reduced setbacks shall not occupy more than 50 percent of the width of any rear yard. |   |

## B. Permitted Exceptions through Building Height Limits<sup>500</sup>

<sup>494</sup> Five feet reduced from nine feet and have made this made applicable to R-1A, R-1B, and R-1C districts for internal consistency.

<sup>495</sup> Current 11-06-07.3.B(7)(d)(iv.) applied generally (currently applied to alley-loaded accessory structures).

<sup>496</sup> Exception for accessibility ramps is new.

<sup>497</sup> New.

<sup>498</sup> List of examples broadened.

<sup>499</sup> New.

<sup>500</sup> Replaces the current general text permitting height encroachments through the conditional use process to provide greater predictability.

Certain building and site features listed in Table 11-04.5 below may exceed the maximum building height limits listed in Section 11-04-03.2, *Dimensional Standards Summary Tables* as shown in the Table below.

| TABLE 11-04.6: EXCEPTIONS TO BUILDING HEIGHT LIMITS <sup>501</sup>  |  |
|---|--|
| STRUCTURE OR FEATURE  | CONDITIONS OR LIMITS   |
| Accessory rooftop solar collectors  | May extend up to 18 inches above the height limit for primary or accessory structures.   |
| Accessory wind energy system  | Permitted height shall be 10 feet above the height limit for primary structures.   |
| Chimneys, ventilators, skylights, water tanks, bulkheads, similar features, and necessary mechanical appurtenances frequently mounted above the roof level  | Exempt from height limit.  |
| Ham radio antenna or television antenna   | Permitted height shall be 45 feet measured from finished grade, only permitted in rear yard, and shall comply with all required setbacks.                                      |
| Structures built to support, shelter, or enclose emergency warning sirens, communication antennae, or other public safety devices operated by government agencies. Requirements for telecom facilities are included in Section 11-03-03.4.C | Exempt from height limit.  |
| Towers, steeples, spires, belfries, cupolas, and domes on primary nonresidential structures, provided they are not used for human occupancy <sup>502</sup>  | Exempt from height limits, provided their largest horizontal cross-section does not exceed 20% of the horizontal cross-section of the top floor ceiling plate of the building. |

## 7. Incentives<sup>503</sup>

### A. Purpose

The purpose of this Section 11-04-03.7 is to encourage an increased supply of healthy, diverse, affordable, and sustainable housing that will efficiently use the existing infrastructure.

### B. Approval Procedure

The approval procedures for projects earning one or more of the incentives shall be those otherwise applicable under this Code unless this Section specifically modifies the procedure to allow an administrative approval. Any conditions attached to a project approval shall not reduce or modify the housing incentives for which the project qualifies under this Section.

<sup>501</sup> Table is new; current standards require all features to comply with building height standards unless approved through conditional use process. Exceptions for unlisted items would require approval of a variance. Allowance for rooftop solar on accessory structures is new.

<sup>502</sup> Wording revised and horizontal limit.

<sup>503</sup> Consolidates current and existing incentive height, density, and other standards in one place. Replaces dwelling unit per acre based densities in current Sections Current Section 11-06-03.2.A & B and FAR-based C-5 district bonuses in current 11-07-06.3.D in order to simplify and focus incentives on key goals identified in Blueprint Boise. Removed requirement for any administratively approved project to provide notice of decision.

**C. Nonconforming Uses and Structures**

The housing incentives created by this Section shall be available regardless of whether the existing use of the property is a conforming use and regardless of whether any existing structures on the property are conforming structures. All structures shall be required to meet the applicable building codes.

**D. Incentives Available<sup>504</sup>**

**(1) In the R-1A, R-1B, and R-1C Zoning Districts**

Except as described in Subsection (2) below, in the R-1A, R-1B, and R-1C zoning districts, a Triplex or Fourplex Dwelling or a Single-Family Attached Dwelling containing up to four dwelling units is not subject to the base zoning district density limit if it complies with all applicable Use-Specific Standards in Section 11-03-03 and also complies with all of the following standards for affordability and sustainability/resilience.

**(a) Affordability**

At least one of the three permitted units in a Triplex Dwelling, or in a three-unit Single-Family Attached Dwelling, or at least two of the permitted four units in a Fourplex Dwelling, or in a four unit Single-Family Attached Dwelling, shall be income-restricted to remain affordable to households earning not more than 80 percent<sup>505</sup> of the Area Median Income for the Boise area if the dwelling unit(s) is a rental unit; or affordable to households earning no more than 120 percent of the Area Median Income if the dwelling unit(s) is a for-sale property, for a period of at least 50 years.

**(b) Sustainability/Resilience**

In addition to satisfying the criteria in Subsection (a) above, the project shall satisfy all of the following criteria for sustainable and resilient development:

**i. Clean Energy**

The building shall use electricity or geothermal energy to meet all of its heating, hot water, and appliance energy needs for in all dwelling units;

**ii. Energy Saving**

The building shall either:

**A.** Consume at least 15 percent less electrical energy than would be consumed if the building met the adopted energy code, based on modeled building energy performance comparisons, individually documented energy savings measures, or receiving a comparable energy efficiency utility incentive (if applicable/available at time of construction); or

**B.** Must meet the adopted Green Building Code, whichever achieves the greater energy savings; and

<sup>504</sup> New. Removed prior applicability language from incentives in Subsection (1) related to four single-family detached dwellings on four contiguous lots.

<sup>505</sup> Increased from 60 percent.

**iii. Water Saving**

The building shall consume at least 15 percent less water than would be consumed if the building met all water conservation standards applicable to similar development.

**(2) In the R-1B and R-1C Districts**

In the R-1B and R-1C zoning districts, a project containing between three to 12 primary or Accessory Dwelling Units permitted by Table 11-03.1: *Table of Allowed Uses* is not subject to the base zoning district density limits if it complies with all applicable Use-Specific Standards in Section 11-03-03 and also complies with all of the following standards for applicability and affordability. Projects that contain five or more dwelling units shall also receive a 50 percent reduction in minimum required off-street parking. If a project meets the requirements of both this Subsection (2) and Subsection (1) above, the requirements and incentives in this Subsection (2) shall apply.

**(a) Standards**

The project shall satisfy all the following criteria:

**i. Location**

- A.** The project site shall be located entirely within 300 feet of a collector or minor arterial roadway (as determined by the Ada County Highway District Master Street Map) or within one fourth of a mile of a property zoned MX-3; and
- B.** Have a minimum of 55 feet of street frontage.

**ii. Lot Characteristics**

The project site shall be:

- A.** A vacant lot;
- B.** A lot where the improvement/structure value as assessed by the Ada County Tax Assessor for the most recent year is no greater than 25 percent of the total assessed value of the property; or
- C.** A lot on which an existing structure will be incorporated into the project design.

**iii. No Recent Demolitions**

The project site shall not include any property for which the City approved a demolition permit for a primary structure within the previous three years.

**iv. Parking, Visibility and Access**

- A.** Any surface parking lot or garage shall be located to the rear of the structure(s).
- B.** Any surface parking lot or parking garage shall be accessed from an alley if an alley is present, or shall have only one access point if an alley is not present.

**(b) Affordability**

Projects shall comply with all the following affordability standards, as applicable to the size of the project.

**i. Projects with Three or Four Dwelling Units**

No affordability requirements.

**ii. Projects with Five to Eight Dwelling Units**

At least one of the units shall be income-restricted to an affordable household earning not more than 80 percent of the Area Median Income for the Boise area, if the dwelling unit is a rental unit; or affordable to a household earning no more than 120 percent of the Area Median Income, if the dwelling unit is a for-sale property, for a period of at least 50 years.

**iii. Projects with Nine to Twelve Dwelling Units**

At least two of the units shall be income-restricted to affordable households earning not more than 80 percent of the Area Median Income for the Boise area, if the dwelling units are rental units, or affordable to households earning no more than 120 percent of the Area Median Income, if the dwelling units are a for-sale property, for a period of at least 50 years.

**(3) In the MX-3 District**

In the MX-3 district, a Multifamily Dwelling receives a 50 percent reduction in minimum required off-street parking if it complies with the applicable Use-Specific Standards in Section 11-03-03 and also complies with all of the following standards for affordability and sustainability/resilience:

**(a) Affordability**

At least 25 percent of all permitted dwelling units shall be rental units that are income-restricted to households earning not more than 60 percent of Area Median Income for a term of at least 50 years, and at least 25 percent of the income-restricted units must contain two or more bedrooms.

**(b) Sustainability/Resilience**

In addition to satisfying the criteria in Subsection (a) above, the project shall satisfy all of the following criteria for sustainable and resilient development:

**i. Clean Energy**

The building shall use electricity or geothermal energy to meet all of its heating, hot water, and appliance energy needs for in all dwelling units;

**ii. Energy Saving**

The building shall:

**A.** Consume at least 15 percent less electrical energy than would be consumed if the building met the adopted energy code, based on modeled building energy performance comparisons, individually documented energy savings measures, or receiving a comparable energy efficiency utility incentive (if applicable/available at time of construction); or

**B.** Must meet the adopted Green Building Code, whichever achieves the greater energy savings; and

**iii. Water Saving**

The building shall consume at least 15 percent less water than would be consumed if the building met all applicable water conservation standards applicable to similar development.

**(4) In the MX-4 and MX-5 District**

In the MX-4 or MX-5 district, a Multifamily Dwelling may exceed the applicable height limit in the MX-4 or MX-5 district and is not subject to an off-street parking requirement if it complies with all applicable Use-Specific Standards in Section 11-03-03 and also complies with all of the following standards for affordability and sustainability/resilience:

**(a) Affordability**

At least 25 percent of all permitted dwelling shall be rental units that are income-restricted to households earning not more than 60 percent of Area Median Income for a term of at least 50 years, and at least 25 percent of the income-restricted units must contain two or more bedrooms.

**(b) Sustainability/Resilience**

In addition to satisfying the criteria in Subsection (a) above, the project shall satisfy all of the following criteria for sustainable and resilient development:

**i. Clean Energy**

The building shall use electricity or geothermal energy to meet all of its heating, hot water, and appliance energy needs for in all dwelling units;

**ii. Energy Saving**

The building shall:

- A.** Consume at least 15 percent less electrical energy than would be consumed if the building met the adopted energy code, based on modeled building energy performance comparisons, individually documented energy savings measures, or receiving a comparable energy efficiency utility incentive (if applicable/available at time of construction); or
- B.** Must meet the adopted Green Building Code, whichever achieves the greater energy savings; and

**iii. Water Saving**

The building shall consume at least 15 percent less water than would be consumed if the building met all applicable water conservation standards applicable to similar development.

**(5) Adaptive Reuse Housing<sup>506</sup>**

This Subsection (5) shall apply to projects involving the adaptive reuse of existing structures that are not eligible for the other incentives applicable to the reuse of existing structures in Subsections (1), (2), (3), and (4) above.

**(a)** Projects shall comply with the following standards:

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<sup>506</sup> Revised to include R-1A district and to offer additional incentives, and to avoid overlaps with other adaptive reuse incentives.

- i. The projects shall involve the adaptive reuse of an existing primary structure in the R-1A, R-1B, R-1C, R-2, R-3, MX-1, MX-2, or MX-3 zoning districts<sup>507</sup>;
  - ii. After adaptive reuse, a minimum of 65 percent of the gross floor area of the project building or buildings shall be occupied by residential uses; and
  - iii. The existing primary building being adaptively reused may be increased or reduced in size a maximum of 10 percent.
- (b) If the project is located in the R-1A, R-1B, R-1C, R-2, or R-3 zoning district:
- i. The project shall receive a 50 percent reduction in minimum required off-street parking; and
  - ii. The project shall not be subject to the dwelling unit per acre density limits in the zoning district where the property is located.
- (c) If the project is located in the MX-1, MX-2, or MX-3 zoning district, it shall not be required to provide any off-street parking in addition to that already provided on-site, but any existing on-site parking shall not be reduced below the amount otherwise required by this Code for the proposed reuse.

**11-04-04. Subdivision Standards<sup>508</sup>****Commentary:**

This Section has been carried forward with minimal changes, however the overall organization of this Section and some Subsections have been reorganized for logical flow and parallel structure. Standards related to access and connectivity were removed from this Section and included in the Access and Connectivity Section. The footnotes indicate additional changes. New content includes:

- Simplified text related to parking requirements
- Maximum block dimensions to promote walkability
- Language related to required land dedications
- Revised requirement to provide easements for landscaping (rather than the landscaping itself)

**1. Purpose<sup>509</sup>**

The purpose of this Section 11-04-04.4 is to promote the public health, safety, and general welfare of present and future residents by ensuring that the subdivision of land results in:

- A.** Patterns of lots, blocks, streets, open space, and sites for public facilities that are consistent with the City's adopted Comprehensive Plan;
- B.** New developable lots having thorough and efficient networks of pedestrian, bicycle, and vehicular access and networks of utilities that are efficient and cost-effective to maintain;
- C.** Systems of open space and stormwater drainage, and other natural areas that connect with and complement similar areas on adjacent lots where possible;
- D.** Improved energy efficiency;

<sup>507</sup> District list updated to reflect district consolidation. The bonus currently does not apply in the PC, HS, R-O, or T-2 districts, but would apply to those lands after they are consolidated into the MX-1, MX-2 and MX-3 districts.

<sup>508</sup> Current 11-09, relocated into Development and Design standards to improve coordination and consistency with related Sensitive Lands, Access, and Connectivity standards. Current 11-0-05 (Modifications and Waivers) relocated to Chapter 11-05, Administration and Procedures.

<sup>509</sup> Current 11-09-01.1, revised and expanded to reflect Blueprint Boise goals and objectives.

- E. Avoidance of development on lands such as water bodies, floodways, landslides and fault zones, steep slopes, unstable soils, and wildlife and habitat areas where possible; and
- F. Prevention of noise-sensitive land uses or other uses that would conflict with operations of the airport.

## 2. Applicability<sup>510</sup>

### A. General

This Section 11-04-04 applies to all land divisions within the City, unless another provision of this Code, including but not limited to Sections 11-05-05.2.J(1)(c), *Record of Survey* or 11-05-05.4.G, *Subdivision Plat - Preliminary* provide a different standard or requirement.

### B. Exception for Five-Acre Parcel Division

Review of a Record of Survey pursuant to Subsection 3. below and approval of a Subdivision of Land pursuant to Subsection 4. below are not required for the division of land into parcels of five acres or more meeting the following standards:

- (1) The land is not zoned for or intended to be used for residential development purposes;
- (2) The dedication of public streets or construction of private streets is not required other than dedications for the widening of existing streets; and
- (3) The parcels front onto a street and meet the dimensional standards of the zoning district within which they are located, unless a modification or waiver of those standards is granted by the Planning and Zoning Commission.

## 3. Records of Survey<sup>511</sup>

The following divisions of land and/or change of parcel boundaries shall require the review and approval of a Record of Survey prepared in accord with Idaho Code, 55-19, to establish that resulting parcels are conforming, buildable parcels.

### A. Minor Land Division

The purpose of a Minor Land Division is to allow the creation of up to four buildable parcels without being subject to the procedures for review and approval of a Preliminary and Final Plat. A Record of Survey, application, and the appropriate fee are required for a Minor Land Division of a lot, tract, or parcel of land.

#### (1) Standards

The Minor Land Division must meet the following conditions:

- (a) No Minor Land Division shall create more than a total of four new parcels;
- (b) No property involved in a Minor Land Division shall be involved in a subsequent Minor Land Division for a period of one year from the recording date of the previous Record of Survey for a Minor Land Division;
- (c) No new street dedication, excluding widening of an existing street, is involved;
- (d) No new public utility lines shall be extended to the property involved in a Minor Land Division;

<sup>510</sup> Current 11-09-01.2.

<sup>511</sup> Current 11-09-02. Content reorganized for logical flow and parallel structure.



- (e) Wet line sewer and central water lines shall be currently located in the public right-of-way that abuts the parcel to be divided;
- (f) All resulting parcels must conform to the minimum requirements of all existing land use regulations including the adopted Code;
- (g) All existing buildings that are to remain on the lots following the Minor Land Division shall meet applicable zoning requirements regarding allowed uses and parking and shall comply with the setback requirements of the existing zoning district as measured from any parcel boundary being created by the Minor Land Division process.
- (h) Any setback that was legally nonconforming prior to the Minor Land Division may remain as a lawful nonconforming setback, provided the lawful nonconforming setback is not altered by the Minor Land Division;
- (i) Any building not meeting the required setback that is to be partially or completely demolished or moved shall be either demolished or moved prior to the approval of the Minor Land Division;
- (j) Any existing structures shall connect to public water and sewer lines prior to approval of the Minor Land Division;
- (k) If required parking is provided by means of a permanent shared-parking agreement, a note on the face of the survey must list the total number of spaces required and provide parking for all parcels to which the shared parking provisions of the shared-parking agreement applies;
- (l) When utilities cross land being divided, a utility easement shall be provided and indicated on the Record of Survey. If an easement is located in a proposed permanent structure construction area, the easement shall be vacated prior to the Planning Director's approval of the Minor Land Division;
- (m) All new parcels that abut the public right-of-way shall be improved with a detached sidewalk that complies with all applicable standards on this Code, including but not limited to those standards in Section 11-04-06 *Access and Connectivity* and Section 11-04-08.4 *Street Frontage Landscaping*. A curb, gutter and paved driveway apron that extends to the edge of street pavement shall also be required where applicable. All public right-of-way improvements and/or license agreements, shall be completed prior to the Planning Director's approval of the Minor Land Division; and
- (n) If the Boise Pathways Plan shows a pathway along or across any portion of any of the parcels to be created by the Minor Land Division, the locations of those pathways shall be shown on the Record of Survey.

## (2) Exceptions

Notwithstanding Subsection (1) above, if any of the following conditions are present, an application for Subdivision of Land shall be required pursuant to Section 11-04-04.4.

- (a) The possibility for public or private streets that would provide greater connectivity to the area;

- (b) Creating lots that will have incompatible setbacks to surrounding parcels (i.e. side yards adjacent to rear yards);
- (c) The creation of multiple driveway access points on a collector or arterial roadway when a public or private street could avoid the situation;
- (d) Creating a larger remnant parcel that could otherwise be included in an overall subdivision; and
- (e) New property lines configured in a way that could create future setback or access issues.

## B. Property Line Adjustment<sup>512</sup>

### (1) Conforming Lots of Record

The following standards apply to all Property Line Adjustments involving conforming lots of record that do not qualify as Small Lots pursuant to Section 11-04-03.3 *Residential Small Lots*.

- (a) The boundaries of a parcel within a Residential zoning district or that contains a residential use may be adjusted through the Property Line Adjustment process twice. Any additional boundary adjustments shall require a Subdivision Plat or a Record of Survey for a Minor Land Division.
- (b) The total number of buildable parcels must not be greater than the number of buildable parcels and/or lots existing prior to the Record of Survey. When Property Line Adjustments occur between section land and subdivided lots no lot shall increase in area by more than 20 percent.
- (c) The resulting parcels must meet the minimum requirements for area, frontage, and width for the existing zoning district.
- (d) All existing buildings, driveways and parking areas shall meet the setback requirements of the existing zoning district as measured from any parcel boundary being created by this process. Any setback that is legally nonconforming may remain as a lawful nonconforming setback, provided the lawful nonconforming setback is not altered by the Property Line Adjustment. If any building not meeting the required setback is to be partially or completely demolished, the demolition shall be completed prior to the approval of the Property Line Adjustment.
- (e) If existing residential buildings are to remain, the parcel containing such building(s) shall comply with the parking requirements in this Code. If any off-site parking is permitted by this Code, the amount of permitted off-site parking and the Section of this Code authorizing the off-site parking shall be documented on the Record of Survey.<sup>513</sup>
- (f) If the Property Line Adjustment results in the creation of a new buildable parcel that abuts a public right-of-way (without increasing the total number of buildable parcels on the site), a detached sidewalk that complies with all applicable standards on this

<sup>512</sup> Content reorganized and definition of “property line adjustment” moved to the definitions chapter. Exception for requirement to install a sidewalk if the street or adjacent parcels do not have sidewalks has been deleted.

<sup>513</sup> Text simplified to avoid potential inconsistency with Parking and Loading Section below.

Code, including but not limited to those standards in Section 11-04-06 *Access and Connectivity* and Section 11-04-08.4 *Street Frontage Landscaping*, shall be provided.<sup>514</sup>

- (g) If the lot(s) has driveway access from the street rather than the alley, the area between the edge of the street pavement and the property line shall be paved to align with the driveway. The applicant shall obtain a license agreement from the Ada County Highway District prior to landscaping and/or paving in the right-of-way.
- (h) If the original parcel abuts an alley, each lot created by the Property Line Adjustment shall abut that alley.<sup>515</sup>
- (i) When utilities cross land being divided, a utility easement to each proposed lot shall be provided and indicated on the Record of Survey. If an easement is located in a proposed area for a permanent structure to be construction, the easement shall be vacated prior to the approval of the Record of Survey.

## (2) Residential Small Lots

- (a) If a Property Line Adjustment involves one or more Small Lots, it shall not result in more buildable parcels than the total number of original substandard lots of record or the maximum number of Small Lots permitted by Section 11-04-03.3, *Residential Small Lots*.

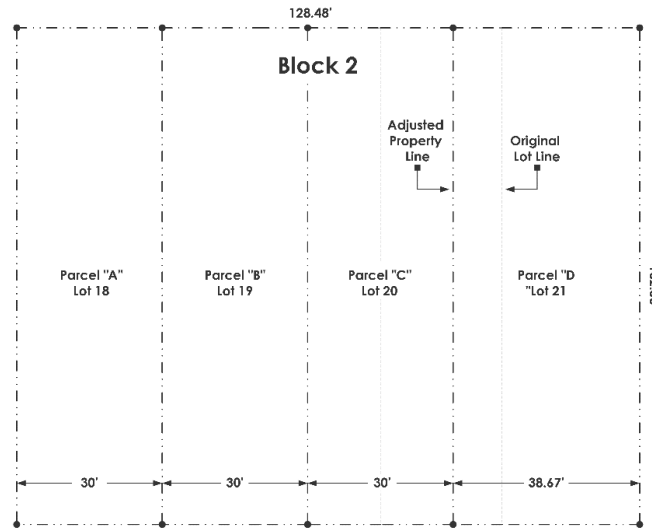


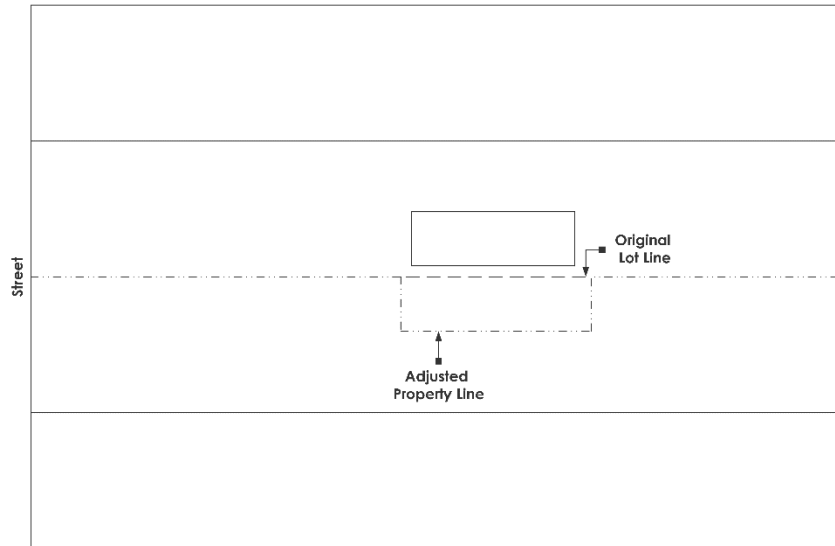
Figure 4-4. Substandard Original Lot of Record

- (b) A Property Line Adjustment that includes a partial lot requires documentation that the split of the lot was recorded prior to October 30, 1965. If the partial lot was created by recorded deed prior to October 30, 1965, and does not qualify as a buildable parcel, it shall be combined with an original lot to count as one buildable parcel.

<sup>514</sup> Reworded for clarity.

<sup>515</sup> New.

- (c) Adjusted side property lines shall be perpendicular to the public street. Exceptions can be made for lots where the original side lot lines were not perpendicular to the street, such as pie shaped lots.



**Figure 4-5. Property Line Adjustment Not Allowed**

- (d) A Property Line Adjustment shall not result in buildable parcels that decrease the area, frontage, or width below that of the Small Lot.
- (e) If the original parcel abuts an alley, each new lot created by the Property Line Adjustment shall abut that alley.<sup>516</sup>
- (f) All existing buildings, driveways and parking areas must meet the setback requirements of the existing zoning district as measured from any parcel boundary being created by this process. Any setback that is legally nonconforming may remain as a lawful nonconforming setback, provided the lawful nonconforming setback is not altered by the Property Line Adjustment. If any building not meeting the required setback is to be partially or completely demolished, the demolition shall be completed prior to the Planning Director's approval of the Record of Survey.
- (g) If existing primary buildings are to remain, the parcel containing such building(s) shall comply with the parking requirements in this Code. If any off-site parking is permitted by this Code, the amount of permitted off-site parking and the Section of this Code authorizing the off-site parking shall be documented on the Record of Survey.<sup>517</sup>
- (h) All parcels that abut an alley shall be required to take parking access from the alley.<sup>518</sup>
- (i) If the Property Line Adjustment results in the creation of a new buildable parcel that abuts a public right-of-way (without increasing the total number of buildable parcels

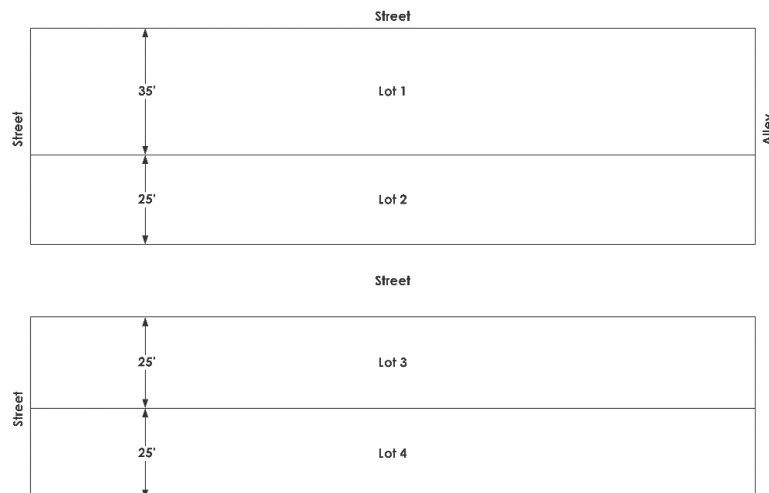
<sup>516</sup> New.

<sup>517</sup> Text simplified to avoid potential inconsistency with Parking and Loading Section below. Allowance for off-site parking now extends to residential as well as nonresidential structures.

<sup>518</sup> Text applying this to only improved alleys was deleted.

on the site), a detached sidewalk that complies with all applicable standards on this Code, including but not limited to those standards in Section 11-04-06 *Access and Connectivity* and Section 11-04-08.4 *Street Frontage Landscaping*, shall be provided.<sup>519</sup>

- (j) If the lot(s) has driveway access from the street rather than the alley, the area between the edge of the street pavement and the property line shall be paved to align with the driveway. The applicant shall obtain a license agreement from the Ada County Highway District prior to landscaping and/or paving in the public right-of-way.
- (k) When utilities cross land being divided, a utility easement to each proposed lot shall be provided and indicated on the Record of Survey. If an easement is located in a proposed area for a permanent structure to be construction, the easement shall be vacated prior to the approval of the Record of Survey.
- (l) The boundaries of a parcel within a Residential zoning district or containing a residential use may be adjusted through the Property Line Adjustment process twice. Any additional boundary adjustments shall require a Subdivision Plat or a Record of Survey for a Minor Land Division.
- (m) A Property Line Adjustment shall only occur between an original corner lot and an original interior lot if the original corner lot is a minimum of 35 feet or more in width, or the minimum width for a corner lot permitted by Section 11-04-03.3 *Residential Small Lots*, whichever is smaller, unless three or more lots are combined resulting in a reduction in density. Adjusted corner lots shall comply with the following standards:

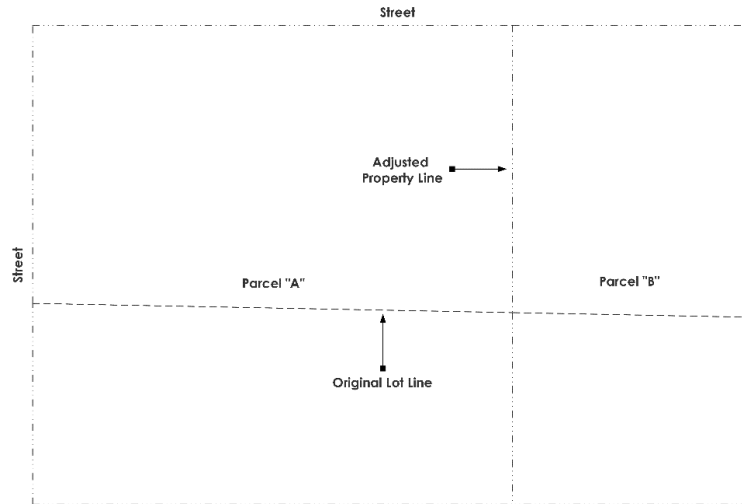


**Figure 4-6. Property Line Adjustments Not Allowed**

- i. If a lot at the corner of two streets is proposed to be adjusted, the resulting corner lot shall be at least the same square footage as the original corner lot.

<sup>519</sup> Reworded for clarity. Exception for cases where abutting lots or streets do not have sidewalks was deleted.

- ii. If an existing dwelling is located on a corner lot, a 15 foot rear setback shall be provided from the existing dwelling to the new rear property line, regardless of the orientation or street address of the existing dwelling.



**Figure 4-7. Adjustment Demonstrated**

- (n) If the lot(s) contains an existing dwelling, a minimum of 150 square feet of open space, located outside of the setbacks for each existing dwelling shall be designated as such on the Record of Survey.

**(3) Parcel Consolidation<sup>520</sup>**

A Record of Survey is required to allow the consolidation of two or more existing contiguous parcels, with at least one parcel deemed as buildable, into one buildable parcel.

- (a) Prior to issuance of a Building Permit, a copy of a recorded Notice of Buildable Parcel and a copy of a recorded deed describing by metes and bounds the entirety of the platted lots shall be submitted to the Planning Director.
- (b) If an easement is located in a proposed area for a permanent structure to be construction, the easement shall be vacated prior to the approval of the Record of Survey.

#### **4. Subdivision of Land<sup>521</sup>**

##### **A. Applicability**

All divisions of land into parcels of one or more lots or tracts for development shall be required to complete the Subdivision of Land process, except:

- (1) Divisions of land that are exempt from the Record of Survey and Subdivision of Land process pursuant to Section 11-04-04.2.B.
- (2) Divisions of land that are required to obtain a Record of Survey pursuant to Section 11-04-04.3.

<sup>520</sup> Revised to provide that only lots that will interfere with a future building construction site need to be vacated.

<sup>521</sup> Current 11-09-03.

**B. General**

No Building Permit for the construction of any new structure upon property within a proposed Subdivision of Land shall be issued until the Subdivision Plat has been recorded.

**C. Design Standards<sup>522</sup>**

All Subdivisions of Land shall comply with the following standards unless Section 11-05-05.4.G, *Subdivision Plat - Preliminary* or another provision of this Code provide a different standard or requirement.

**(1) Sensitive Lands**

All Subdivisions of Land shall comply with the standards in Section 11-04-05, *Sensitive Lands* applicable during the subdivision process.

**(2) Access and Connectivity<sup>523</sup>**

(a) All Subdivisions of Land shall comply with the standards in Section 11-04-06.4, *Access and Connectivity* applicable during the subdivision process, including standards related to block layouts, maximum block dimensions, street and mobility networks, and perimeter access points.

(b) Partial street dedications shall not be permitted unless the street forms the boundary of the property being subdivided, the adjacent property is not under common ownership, and the street is anticipated to be a through street upon development of adjacent properties. All partial street dedications shall require construction of partial street Sections that meet ACHD standards.

**(3) Block Numbering<sup>524</sup>**

Block numbers shall be designated as required by Idaho Code.

**(4) Lot Layout****(a) Dimensions**

All lot areas, dimensions, and minimum street frontages shall comply with the standards in Section 11-04-03, *Lot and Building Forms and Dimensions* for the zoning district in which the lot is located, unless otherwise provided in this Code.

**(b) Double Frontage Lots**

Double frontage lots are prohibited except where it is shown that unusual topography or other conditions make it impossible to meet this requirement. Lots with double frontage shall be limited to one street access on one frontage by a plat note.

**(c) Landlocked Parcels**

All parcels that do not have required frontage or access shall be labeled "non-buildable" on the plat. Each such non-buildable parcel shall be required to have a pedestrian ingress and egress easement unless adequate street frontage exists for a pedestrian pathway.

<sup>522</sup> Reorganized to group street design standards with other access and connectivity standards, and to add cross-references. Specific text of plat notes will appear on the City's website.

<sup>523</sup> Materials on public and private street layouts and alleys has been moved to the Access and Connectivity section.

<sup>524</sup> Deleted block perimeter maximums in Consolidated Draft for internal consistency (those standards are found in the Access and Connectivity section).

**(d) Building Envelopes<sup>525</sup>**

To address unique site conditions or constraints, the Planning Director may require that the plat indicate a building envelope within which primary structures may be constructed.

**D. Utility and Pathway Easements**

- (1) Easements shall be provided as required by the utilities, and other public services.
- (2) City Council may require applicants to reserve permanent public use easements for public access pathways<sup>526</sup>, or for future improvement and maintenance by the City or landowner or association. Any easement required under this Section may be used in conjunction with or as an alternative to a public pedestrian access requirement under Section 11-04-06.4.I, *Pedestrian and Bicycle Connectivity and Circulation*.
- (3) Residential projects that may be included in a Subdivision of Land at a later date shall place utilities in a street or in easements parallel and next to the street, unless the City approves an alternative location.<sup>527</sup>

**E. Subdivision Edges Along an Arterial and Collector Street<sup>528</sup>****(1) Front Lot Lines**

- (a) Frontage roads separated from a collector or arterial street by a landscaped median at least 10 feet wide, are permitted with approval of ACHD. The median shall be planted with trees and shrubs that at maturity will form a solid screen at least six feet high and a continuous tree canopy.
- (b) The front lot line of a parcel may directly abut a collector or arterial street provided that an ACHD-approved alley is provided at the rear of such lots to provide direct lot access. Direct lot access to the collector or arterial is prohibited.

**(2) Side and Rear Lot Lines**

Except as described in Subsection (c) below, a non-buildable lot or outlot to contain required landscaped buffer areas shall be provided where single-family residential lots are adjacent to collector or arterial streets. If the creation of a non-buildable lot or outlot is impracticable, the Planning Director may authorize the creation of an easement to contain the required landscaping.<sup>529</sup>

- (a) The buffer shall be located outside of any planned future right-of-way.
- (b) The width of the buffer along arterial streets shall be a minimum of 30 feet, along collector streets it shall be a minimum of 20 feet.
- (c) The buffer area may be located within the lot provided that:
  - i. In cases where the rear lot line runs along an arterial or collectors, the depth of the lot is a minimum of 130 feet; and

<sup>525</sup> Reworded for clarity, and to avoid the use of "setbacks" because zoning setbacks may change over time and should not be shown on plats.

<sup>526</sup> Removed reference to "micro-pathways" as the standards for micro pathways were not carried forward.

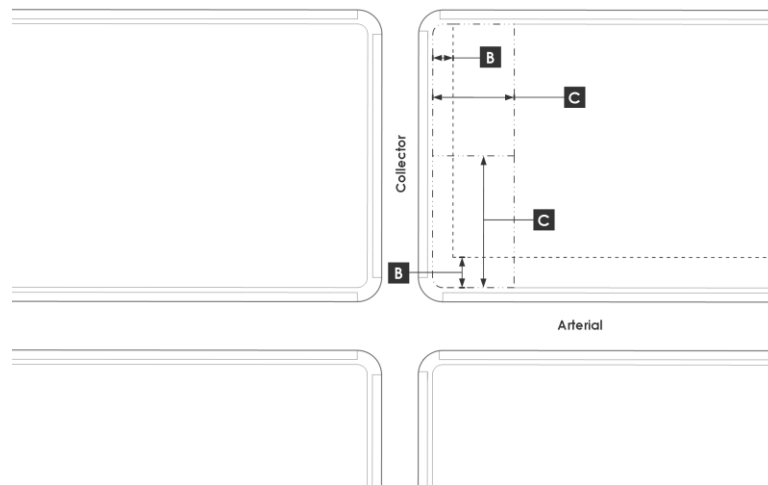
<sup>527</sup> Non-regulatory text about potential costs of relocating otherwise-located utilities was not carried forward.

<sup>528</sup> Revised to require easements; requirements for landscaping are in Section 11-04-08, *Landscaping*.

<sup>529</sup> Revised to reflect City preference for a lot or outlot rather than an easement to contain this landscaping.



- ii. In cases where the side lot line runs along an arterial or collector, the width of the lot is a minimum of 80 feet.



**Figure 4-8. Buffer Easement within Buildable Lot**

- (d) Fences and walls shall not be placed within the following areas:<sup>530</sup>
  - i. The internal boundary of the required landscape buffer;
  - ii. A minimum of five feet from the back of attached sidewalks;
  - iii. At the back of sidewalks separated from the curb by landscaping (provided the fence is not higher than four feet tall); or
  - iv. 15 feet from back of curb.

## 5. Required Improvements<sup>531</sup>

All Subdivisions of Land shall be required to construct the following improvements and to comply with the requirements concerning those improvements, related land dedications, and other matters described in this Section 11-04-04.5.

### A. Filing of Plans and Financial Surety

- (1) Plans for the required improvements shall be certified by a professional engineer registered in the State of Idaho, unless otherwise specifically approved by the applicable public agency.
- (2) At or prior to the time of filing certification of the Final Plat, the applicant shall file with the Planning Director a surety bond or other form of financial security to secure the completion of the construction of required improvements not yet completed. All bonds or other guarantees shall be in the amount of 110 percent of the estimated cost of the improvement.<sup>532</sup>
- (3) The period of construction may be extended for six months upon the payment of extension fees and adjustments of the bonding surety amount to reflect revised

<sup>530</sup> Wording clarified to state that fences and walls are not allowed in these areas

<sup>531</sup> Current 11-09-04. Materials reorganized and text revised for clarity. Provisions on pedestrian connectivity from current 11-09-04.8 have been moved to the *Access and Connectivity* Section.

<sup>532</sup> Text on bonding surety revised to allow acceptance of other forms of financial security.

construction costs. Extensions of bond surety and construction time beyond this initial six month extension may be approved by the City Council upon a showing of undue hardship and the payment of all required fees.

- (4) Improvement(s) installed by the applicant as a condition of platting shall require certification by a professional engineer that the construction is in accordance with approved plans.
- (5) After the completion of required improvements, the applicable public agency shall certify the completion and acceptance of those improvements in writing and shall transmit a copy of the certification to the City Clerk and to the applicant. Upon receipt of the certification, the City shall authorize release of the surety bond or other guarantee upon application.

## B. Water

### (1) Water Lines and Hydrants

- (a) In all Subdivisions of Land, the applicant shall provide central water lines and fire hydrants that comply with all applicable City, state, and other governmental regulations, unless an alternative form of water supply has been approved by City Council.
- (b) Alternate provision for domestic water supply and fire protection may be approved by City Council if Council determines that the proposed alternative meets the standards of the City Fire Code, the Idaho Public Utilities Commission, the Idaho Department of Water Resources, and the Idaho Department of Health, and subject to any conditions imposed by City Council to protect public health, safety, and welfare.<sup>533</sup>

### (2) Written Assurance

- (a) Written assurance by the applicant that provisions have been made for ownership, operation, and maintenance of the water supply and distribution system is required in a form acceptable to the City Attorney before the Final Plat is signed by the City Engineer. The assurance shall include a letter from an existing entity capable of owning, operating, and maintaining the system assuming responsibility for such operation and maintenance.
- (b) If the system is to be owned, operated, and maintained by a Homeowners' Association, the applicant shall create binding covenants, conditions, and restrictions, approved by the City Attorney, providing for control, use, maintenance, and operation of the system, and shall record the covenants in the office of the Ada County Recorder before the Final Plat is signed by the City Engineer.

### (3) Assured Water Supply<sup>534</sup>

#### (a) Applicability

The provisions of this Section 11-04-04.5.B(3) shall apply to each application for the following types of development or approval under this Code, regardless of whether or not the development requires a Subdivision of Land:

<sup>533</sup> Examples of conditions were not carried forward as they do not have regulatory effect.

<sup>534</sup> New.

- i. All proposed development that included the creation of five or more dwelling units;<sup>535</sup>
- ii. All proposed development on previously undeveloped lands;
- iii. All proposed development in a Groundwater Management Area (GMA); and
- iv. All redevelopment of property that does not submit with its application information acceptable to the Planning Director demonstrating that the project will not increase water demand when compared to the previous use of the property when fully operational and occupied.

**(b) Proof of Adequate Water Supply Required**

Each applicant shall provide proof of an assured adequate water supply as part of the development application process. This can be accomplished two ways:

- i. The applicant may obtain a letter from a Designated Water Provider committing all or a portion of its assured water supply to meet the anticipated water demands of the proposed development; or
- ii. The applicant may submit to the City an independent Assured Water Supply Examination (AWSE), prepared at the applicant's expense, confirming that the applicant's proposed water supply is physically and legally available to continuously meet estimated water demand of the proposed development for a period of at least 100 years.

**(c) Assured Water Supply Examination**

If the applicant chooses to satisfy the requirement of Subsection (b)(ii) above, the Assured Water Supply Examination (AWSE) must include the following information and demonstrate that the following criteria have been met, as determined by the Planning Director. The AWSE must:

**i. Physical Water Availability**

Include a hydrologic analysis demonstrating the physical availability of water for the proposed development.

**ii. Legal Water Availability**

Document the applicant's legal rights to water supplies included in application.

**iii. Continuous Water Availability**

Demonstrate that the water supply is uninterrupted for the 100 year period or that sufficient backup supplies exist for any anticipated shortages.

**iv. Water Quality**

Demonstrate that the proposed source water satisfies the Idaho Department of Environmental Quality water quality standards for the intended beneficial use at the time of the application.

**v. Financial Capability**

Demonstrate the applicant's financial capability to construct the water delivery infrastructure and any required storage and/or treatment facilities.

<sup>535</sup> Revised from four units in Consolidated Draft for internal consistency.

**vi. Adequate Delivery**

Demonstrate that adequate water delivery, storage, and treatment works will be available to the applicant or applicant's customers for a period of at least 100 years.

**vii. Compliance with GMA Standards**

If the property is located in a Groundwater Management Area (GMA), demonstrate that the application complies with applicable GMA standards and requirements.

**viii. Period Recertification Required**

The AWSE shall include the applicant's written commitment acceptable to the City Attorney, binding the applicant and its successors in interest to update the AWSE analysis at least every 10 years until project completion, and to recertify at least every 10 years the adequacy of the assured water supply to serve the initial development approved by the City and, as modified by any changes in the type or intensity of the development approved by the City since initial AWSE was prepared.

**C. Sanitary Sewer**

In all Subdivisions of Land, the applicant shall provide sanitary sewers that comply with all applicable City, State, other governmental, and sewer provider regulations. Plans and specifications shall be approved by the appropriate sewer entity prior to signing of the Final Plat by the City Engineer.

**D. Drainage<sup>536</sup>**

In all Subdivisions of Land, the applicant shall provide storm drainage facilities that comply with all applicable City, state, and other governmental regulations, including without limitation ACHD design and review requirements related to storm drainage.

- (1) All natural drainage courses shall be left undisturbed or be improved in a manner that will improve the hydraulics and ease of maintenance of the channel. For purposes of this provision, the term "natural drainage course" shall not be deemed to apply to minor swales and depressions that are located entirely on the applicant's property and that serve a relatively small area where runoff is infrequent.
- (2) Relocation of natural swales is only permitted if the applicant meets applicable standards and regulations related to drainage hydraulics and ease of maintenance.
- (3) The City Council may require the reservation of an easement along any stream or important surface drainage course located in a proposed Subdivision of Land for the purpose of widening, deepening, sloping, improving, or protecting the stream or drainage course.

**E. Irrigation Conveyance<sup>537</sup>**

- (1) No ditch, pipe, or structure for delivery of irrigation water or for carrying irrigation wastewater shall be obstructed, rerouted, covered, or changed in any way unless it has been approved in writing by the authorized representative of the person(s) owning the

<sup>536</sup> Reference to technical standards will appear on the City's website.

<sup>537</sup> Section-specific definition of "person" was deleted; the standard definition shall apply.

water rights delivered or diverted by means of the ditch. The applicant shall be required to provide such written authorization to the City prior to approval of the Final Plat.

- (2) All irrigation ditches, laterals, canals, and drains, exclusive of natural waterways, intersecting, crossing, or lying adjacent to or within 60 feet of an area being subdivided shall be covered or fenced with a chain link fence at least six feet in height to deter access to the ditch, lateral, or canal. Any covering or fencing program involving the distribution system of any irrigation district shall have the prior approval of the affected district.
- (3) The fencing requirement may be waived by the Planning Director if it would not serve to protect or improve public safety, and may be waived for any body of water that is to be part of the development, in which the banks are no steeper than one foot vertical per four feet horizontal and where the depth (in feet) multiplied by the peak velocity (feet per second) does not exceed four.
- (4) In the event the applicant cannot obtain a response for the modifications proposed from the authorized representative of the water entity, approval shall be assumed to be obtained if the following documents are submitted to the Planning Director:
  - (a) Copy of certified letter to the authorized representative along with documentation of receipt of letter. The letter to authorized representative shall be accompanied by plans and shall request written approval forwarded to the Director within 30 days of receipt.
  - (b) Letter from a registered professional engineer stating that the improvements and/or modifications to the ditch, lateral, canal, or drain will meet the provisions of Titles 31 and 42 of the Idaho Code, relating to requirements of delivery of water to downstream users.

#### F. Street Lighting<sup>538</sup>

All applicants subdividing within the City limits shall be required to install street lights that comply with Public Works specifications and standards.

#### G. Access and Connectivity Improvements<sup>539</sup>

- (1) The applicant shall construct those improvements required by Section 11-04-06, *Access and Connectivity* unless the City has approved in writing an alternative or adjustment of the requirement to construct such improvements.
- (2) All public right-of-way improvements, license agreements, and/or bonding shall be completed prior to issuance of any Residential Certificate of Occupancy in the development.

#### H. Land Dedications<sup>540</sup>

##### (1) General

- (a) The applicant shall dedicate to the City, or to the entity responsible for providing the services listed in Sections 11-04-04.5.B through 11-04-04.5.F above, the land on which the facilities related to the provision of that service is located, unless the City or

<sup>538</sup> Text regarding City maintenance of street lights after dedication and acceptance was deleted unnecessary, since that is true of all dedicated improvements unless the City makes another agreement regarding maintenance.

<sup>539</sup> New. Provisions from current Substandard Original Lots of Record and/or Duplex/Triplex standards made generally applicable to reflect current practice, and for internal consistency.

<sup>540</sup> New.

service provider entity requests that the applicant retain ownership of the land subject to a lease or other agreement allowing for the provision of the service.

- (b) The dedication shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.

## (2) Park or School Sites

Whenever the applicant desires or proposes to reserve area for a school or public park, the area shall be delineated on the Subdivision Plat, and the applicant shall provide documentation that the proposed site is acceptable to the school district and the City, as applicable. Written acceptance of the dedication of any proposed school site by the appropriate school entity, and written acceptance of any proposed park by the Boise Parks and Recreation Department, shall be received by the City Engineer prior to approval of the Final Plat.

## I. Landscaping

Required landscaped areas shall comply with the standards in Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

## J. Pressure Irrigation

- (1) Unless a Variance is obtained pursuant to Section 11-05-05.3.L, a pressurized individual lot irrigation system is required for any residential subdivision.<sup>541</sup>
- (2) Irrigation system maintenance and operation shall be provided by the irrigation district or canal company, a municipal irrigation district, a Homeowners' Association, or another entity capable of operating and maintaining a pressurized irrigation system.

## K. Written Assurance

- (1) Written assurance that provisions have been made for ownership, operation and maintenance of the system is required before the plat is signed by the City Engineer. Such assurance shall include a letter from an existing entity capable of owning, operating, and maintaining the system assuming responsibility for such operation, and maintenance.
- (2) If the system is to be owned, operated, and maintained by a Homeowners' Association, the applicant shall create binding covenants, conditions, and restrictions, approved by the City Attorney, providing for control, use, maintenance, and operation of the system.

## L. Proof of Compliance

Prior to final approval of the Final Plat, the applicant shall provide proof of compliance with this Section and with Idaho Code, Section 31-3805(1)(b).

<sup>541</sup> Consolidated Draft clarifies that deviation from this requirement require a Variance.

**11-04-05. Sensitive Lands<sup>542</sup>****Commentary:**

This Section pulls together standards related to sensitive land issues including the airport influence area, Boise River system, flood hazards, hillside development, and foothills development. All topics, excluding the Foothills development standards cross-reference the applicable overlay district standards.

The Foothills development standards are largely carried forward except to remove the requirement to be processed as a PUD. Instead, these standards will be applied through the staff review and/or Planning Commission and/or Design Review processes that would otherwise apply.

**1. Airport Influence Area Standards**

All development within the Airport Influence Overlay district shall comply with the standards in Section 11-02-07.3.A, *AI-O Airport Influence Area Overlay*.

**2. Boise River System Standards**

All development within the Boise River System Overlay district shall comply with the standards in Section 11-02-07.3.B, *BR-O: Boise River System Overlay*.

**3. Flood Hazard Standards**

All development within the Flood Protection Overlay district shall comply with the flood hazard standards in Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.

**4. Hillside Development Standards**

All development within the Hillside Development Overlay district shall comply with the standards in Section 11-02-07.3.D, *HS-O: Hillside Development Overlay*.

**5. Wildland Urban Interface Standards**

All development within the Wildland Urban Interface Overlay district shall comply with the standards in Section 11-02-07.3.E, *WUI-O: Wildland Urban Interface Overlay*.

**6. Foothills Development Standards<sup>543</sup>****A. Purpose**

The purpose of this Section 11-04-05.6 is to implement residential subdivision density and design elements of the Comprehensive Plan in the Foothills Planning Area. It is also designed to protect and promote preservation of contiguous areas of Foothills open space that contain important and significant natural and cultural resource values, as identified in the Comprehensive Plan and this Code.

<sup>542</sup> New Section incorporating current 11-07-08 and 11-07-09 Foothills and Foothills Planned District standards. Application materials from current Exhibit A will appear on the City's website. All references to approval of a PD or Conditional Use Permit have been removed; the standards are designed to be applied through the standard subdivision and site planning processes. Sample conservation documents from Exhibit B and resources with additional open space guidance from Exhibit C will appear on the City's website.

<sup>543</sup> Currently 11-07-09. Text has been revised significantly and in some cases reordered for clarity and to avoid repetition.

**B. Applicability**

- (1) This Section 11-04-05.6 shall apply to all proposed developments in the Foothills Planning Area at the time an Annexation is proposed and/or a Zoning Map Amendment is requested.
- (2) The standards of this Section 11-04-05.6 also apply to developments within the Hillside Development Overlay as described in Section 11-02-07.3.D, *HS-O: Hillside Development Overlay*.<sup>544</sup>

**C. General Requirements<sup>545</sup>**

- (1) In addition to application materials otherwise required for an annexation or rezoning, applications for development in the Foothills Planning Area shall include materials required for a Hillside and Foothill Areas Development Permit, and where applicable, a Floodplain Permit.
- (2) Upon annexation the buildable areas shall be zoned as R-1A, and shall be required to comply with the provisions of this Section 11-04-05.6, unless City Council determines that some buildable areas not including steep slopes or sensitive lands shall be zoned R-1B in return for the zoning of other O-3 for preservation as open space.<sup>546</sup>
- (3) Developments shall be required to connect to municipal water and sewer services and participate in other municipal service districts as applicable.

**D. Permitted Development Densities****(1) Additional Dwelling Units Permitted<sup>547</sup>**

- (a) In return for the preservation of open space, applicants shall be permitted to develop additional dwelling units beyond those permitted in the existing base zoning district(s) pursuant to the formula in Table 11-04.7.
- (b) These provisions do not increase the area of the site that may be developed, but increase the number of units that may be developed within the same buildable area. Additional dwelling units may be added to the density base units without the requirement for additional open space preservation.
- (c) The number of additional dwelling units permitted is based upon the ratio of (i) buildable area to be preserved as open space to (ii) the buildable area to be developed.
- (d) Open space or additional dwelling units are allowed between the numbers shown in Table 11-04.7: *Density Bonus Formula*, provided that the formula is unchanged.

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<sup>544</sup> Clarifies that a foothills application is located in the HS-O and the Foothills Planning Area both sets of standards shall be met.

<sup>545</sup> Requirement for all Foothills development approvals to be processed as PUDs was not carried forward. These standards are applied through the staff review and/or Planning Commission and/or Design Review processes that would otherwise apply. Details about application materials will appear on the City's website.

<sup>546</sup> Replaces current requirement for zoning to R-1A with slopes and open space to be zoned A-1 or A-2.

<sup>547</sup> Provisions for transfer of development rights to other properties was deleted because the City has never adopted a TDR ordinance.



**TABLE 11-04.7: DENSITY BONUS FORMULA**

| BUILT AREA (PERCENT) | OPEN SPACE DEDICATED (PERCENT) <sup>548</sup> | DENSITY BONUS (UNITS/ACRE) | BUILDABLE AREA ON 100 ACRES AFTER OPEN SPACE SET – ASIDE (ACRES) | NUMBER OF BONUS UNITS |
|----------------------|---|----------------------------|--|-----------------------|
| 75                   | 25  | 0.5                        | 75.0   | 38                    |
| 69                   | 31  | 0.75                       | 68.8   | 52                    |
| 63                   | 37  | 1.0                        | 62.5   | 63                    |
| 56                   | 44  | 1.25                       | 56.3   | 70                    |
| 50                   | 50  | 1.5                        | 50.0   | 75                    |
| 44                   | 56  | 1.75                       | 43.8   | 77                    |
| 38                   | 62  | 2.25                       | 37.5   | 84                    |
| 31                   | 69  | 3.0                        | 31.3   | 94                    |
| 25                   | 75  | 4.0                        | 25.0   | 100                   |

**(2) Eligible Preserved Open Space**

- (a) Preserved open space eligible for a density bonus based on Table 11-04.7: *Density Bonus Formula*, shall comply with the following requirements:
- The open space shall be classified as priority open space in Subsection (4) below.
  - The open space shall be at least one acre in size and shall have an average width of at least 30 feet
  - The open space shall not have a slope greater than 25 percent.
- (b) Public rights-of-way that connect development pockets and provide access to public open space may be included in the density calculation for open space.
- (c) Roads within a development pocket and other public rights-of way that have dwelling units fronting or siding onto them shall not be included in density calculations for open space.

**(3) Ineligible Preserved Open Space**

- (a) The following shall not be considered as preserved open space in the density bonus calculation, except as may be provided in Subsection (4):
- Urban development such as club houses, tennis courts, swimming pools, dirt bike tracks, golf driving ranges, and similar uses that dramatically alter land from its natural state; and
  - Commercial land uses.
- (b) Park sites internal to a subdivision or development may only be included as eligible open space when they are retained in a primarily natural condition and include a significant opening from the subdivision or development into a larger designated open space outside the subdivision or development.

<sup>548</sup> Some percentages modified by 1% by staff.

**(4) Priority Open Space<sup>549</sup>**

- (a) Some areas of the Foothills have a combination of characteristics that cause them to be considered worthy of special incentives for preservation, even if they do not meet those size, slope, or dimensional standards to qualify as open space eligible for a density bonus under Subsection (2) above. When these areas are identified on a property and proposed for preservation, the PZC may classify them as priority open space and allow all or a portion of them to qualify for the approval of additional dwelling units.

**(b) General Eligibility Criteria**

Priority open space shall include at least four of the following characteristics to be eligible for a density bonus:

- i. Wetlands;
- ii. Riparian areas;
- iii. Rare plant communities;
- iv. Critical deer and elk winter range and migration corridors;
- v. Potential Public Preservation Sites as documented by the HPC;
- vi. Unique geologic or visual features;
- vii. Archeological or other historic sites;
- viii. Designated trails and trailheads in the Ada County Ridge to Rivers Pathway Plan;
- ix. Other public trails and trailheads as approved by the Parks and Recreation Board;
- x. Areas adjacent to publicly-held open spaces or areas that have been identified for consideration as permanent public open space; or
- xi. Areas that have been dedicated to or acquired by a public agency through a discounted sale.

**(c) Additional Criteria for Steeply Sloped or Fragmented Open Space<sup>550</sup>**

- i. Preservation of priority open space in steeply sloped areas or in fragmented pieces shall only be eligible for approval of additional dwelling units if it meets the following criteria, as determined by the Planning and Zoning Commission after receiving input from the Idaho Department of Fish and Game, the Parks and Recreation Board, and other public agencies with expertise in the issue at hand in determining the proper amount to be allowed to be set aside in return for a density bonus.
  - A. Public access is provided to the priority open space;
  - B. The open space protects important vegetation, terrain, or scenic views and vistas that could be damaged or destroyed from an allowed use such as mining, logging, grazing, or construction of utilities or infrastructure;

<sup>549</sup> Current references to “priority” and “high priority” open space were not carried forward, because in practice the Code treats the two terms interchangeably and staff does not distinguish between them. Text was significantly revised to remove subjective and vague terminology, and to avoid repetition.

<sup>550</sup> Renamed from Criteria for Determining Demonstrable Increase in Public Value of Priority Open Space.

- C. The open space links interspersed eligible areas into a more biologically complete and continuous wildlife corridor; or
- D. The open space is dedicated to or acquired by a public agency through a discounted sale.
- ii. Links type golf courses may be permitted in designated preserved open space, provided that the intervening spaces are maintained in a primarily natural condition. Golf courses shall use native plants and natural contours shall be left intact. Parking lots, club houses, driving ranges, maintenance facilities, and similar golf related uses shall not be counted as open space contributory to the density bonus. Designated trails and park sites shall be preserved in or around the golf course.

#### (5) Design Standards<sup>551</sup>

##### (a) General Standards

- i. Residential uses shall be clustered in development pockets rather than scattered throughout the property.
- ii. Development pockets shall comply with design principles in the Comprehensive Plan concerning clustering, environmental protection, open space conservation, and scenic and aesthetic goals.
- iii. Gated entrances are prohibited due to the potential for such limited access to restrict or delay emergency response.
- iv. Designated open space shall be linked to the maximum extent practicable.<sup>552</sup>
- v. Disturbance of the land shall be minimized and development shall be avoided in areas that would require excessive grading, cut, and fill.
- vi. Road and trail access to adjacent properties shall be provided to prevent landlocked parcels or breaks in the trail systems, and to provide the opportunity for future connectivity.
- vii. Roads and infrastructure shall not cross designated open space, floodways, wetlands, and areas of high wildlife habitat value to the maximum extent practicable.

##### (b) Standards for Trails<sup>553</sup>

Trails that comply with the following design standards shall be provided as part of the subdivision or development.

- i. The Ada County Ridge-To-Rivers Pathway Plan shall guide trail locations.
- ii. Public access to trails within and contiguous to the development shall be provided, unless no contiguous or intersecting public trails exist or are proposed,

<sup>551</sup> Text encouraging housing variety was not carried forward as too vague to enforce. Text addressing permitted land uses was not carried forward because foothills standards are no longer a PUD, so base zoning district use standards apply.

<sup>552</sup> Vague 'wherever possible' standard replaced with 'maximum extent practicable' (which is a defined term), here and throughout the text.

<sup>553</sup> Current Subsection F on Allowed Uses of open space was combined with similar language in Subsection vii below to avoid inconsistency.

in which case private trails may be established through the open space, provided that the design preserves the natural character and wildlife habitat value.

- iii. Trail design shall preserve the natural scenic and wildlife habitat values to the maximum extent practicable.
- iv. Public trails shall be secured through dedication, easement, or other such binding mechanism, and shall be shown on the Subdivision Plat.

#### (c) Standards for Preserved Open Space

Priority open space shall be preserved and managed to comply with the following standards.

- i. Contiguous areas of open space within the development and adjacent properties shall be preserved by aligning them along common corridors to the extent possible.
- ii. Indigenous plant species, except for noxious and invasive weeds, shall be maintained undisturbed to the extent possible.
- iii. Areas of highest wildlife habitat value and migration corridors in designated wildlife habitat identified in the Comprehensive Plan shall be preserved.
- iv. Unique geologic and historic features defined as heritage sites, and sites designated for historic preservation by city, state, and federal agencies shall be preserved.
- v. Landslide areas and areas with unstable soils shall not be developed.
- vi. Fencing shall not encroach into preserved open space.
- vii. Agricultural or utility uses may be permitted in open spaces, including livestock grazing, community gardens, or irrigation ponds,<sup>554</sup> and only including those buildings, structures, and necessary appurtenances required by those uses, such as dams and irrigation or drainage systems. These use exceptions shall comply with the policies of the Foothills Policy Plan, shall be shown on the site plan, and shall not degrade the value of the permanent open space.
- viii. Fencing shall not encroach into preserved open space.

#### (d) Grading and Building Disturbance Envelopes

- i. Building envelopes may be required to be shown on the final site plan, and if required shall be recorded or referenced in the notes on the Final Plat.
- ii. Slopes greater than 25 percent shall be shown on the Conditional Use Permit site plan with a disturbance envelope that defines the area outside of which no grading will be allowed.

#### (6) Ownership and Maintenance of Open Space

##### (a) Open space areas may be owned and maintained:

- i. By and for the use of the Homeowners' Association of the project of which it is a part;

<sup>554</sup> Allowance for stormwater detention ponds in these areas was not carried forward.

- ii. By any neighboring Homeowners' Association with abutting preserved open space;
  - iii. By an organization managing adjacent lands held as permanent open space and jointly maintained under a Development Agreement with the City;
  - iv. By the City, if the open space is dedicated or sold to the City after a recommendation of approval to accept such lands by the Board of Parks and Recreation, Planning and Zoning Commission, or other public agency, or a private land trust for open space uses, as noted in a Development Agreement approved by City Council; or
  - v. Through other open space preservation strategies under sole or joint ownership, such as deed restrictions, or conservation easements, as executed when approved by the City.
- (b) Where the goals and policies of adopted plans specify the need for public trails or open space, easements for public lands or trails may be required. Trails or open spaces may be held in private ownership subject to an easement, or may be purchased by the City, or dedicated by the landowner(s) to the City.
- (c) The City will accept no responsibility for the costs of maintenance of open space or recreational facilities unless the Board of Parks and Recreation, PZC, and the City Council specifically approve that responsibility in a written agreement.

## 11-04-06. Access and Connectivity

### Commentary:

**Organization.** This Section includes current 11-07-04, *Connectivity* and introduces new standards related to access, connectivity, and circulation for pedestrians, bicycles, and vehicles. The standards are divided into those applicable to subdivision and those applicable to site development.

**Subdivisions.** The standards for public streets, private streets, common driveways, and alleys as applied to subdivisions were largely carried forward. New maximum block dimension and through-connectivity standards have been introduced to support more compact, walkable patterns of development that create "a street network that interconnects and distributes vehicle, bicycle, and pedestrian traffic to multiple streets (Blueprint Boise).

**Site Development.** The standards applicable to site development include a wide range of new standards for both vehicular and pedestrian access and connectivity to support Blueprint Boise's goals to "connect destinations," "maximize pedestrian safety," and "consider all travel modes" in design standards. The standards build on the current Zoning Ordinance's relatively basic pedestrian access standards and include a cross-reference to the relevant Sections of both the Citywide and Downtown Design Standards and Guidelines.

### 1. Purpose<sup>555</sup>

The purpose of this Section 11-04-05.6 is to reduce vehicle miles traveled and related greenhouse gas emissions by encouraging walking, cycling, and transit by integrating sidewalks and bicycle

<sup>555</sup> New.

routes in new development and redevelopment, and providing shorter and more direct routes between developments.

## 2. Applicability<sup>556</sup>

Unless otherwise stated in this Code, all development of vacant land, all construction of new structures, and all modification of existing structures shall comply with the standards of this Section 11-04-05.6. Applications involving the Subdivision of Land shall comply with the standards of 11-04-06.4 and applications for development on existing platted lots shall comply with the standards of 11-04-06.5.

## 3. General

### A. Compliance with Life Safety Regulations<sup>557</sup>

In addition to all other provisions of this Section 11-04-05.6, all developments shall comply with all applicable regulations and ordinances for fire protection, emergency vehicle access, and life safety adopted by the City, including without limitation those that may limit the number of residential dwelling units relying on a limited number of vehicle access points. If there is a conflict between the requirements of this Section and life safety or engineering standards, the Planning Director in consultation with the Director of Public Works shall determine which standard shall apply.

### B. Americans with Disabilities Act<sup>558</sup>

- (1) Compliance with the Americans with Disabilities Act ("ADA") and other Federal and state accessibility laws is the sole responsibility of the property owner. Therefore, compliance with this Code does not assure compliance with the ADA or any other federal or state accessibility laws or any regulations or guidelines enacted or promulgated under or with respect to such laws. The City is not responsible for enforcement of the ADA or any other federal or state accessibility laws.
- (2) All development shall comply with accessibility requirements based on the most recent version of the International Building Code, Chapter 11, and the International Code Council (ICC) A117.1-2009, or any future update of that document adopted by the City.
- (3) Where a project to develop or redevelop property in the MX-5 district occurs on a lot with street frontage adjacent to one or more of the City's ADA accessible on-street parking spaces, the applicant shall reconstruct the curb to include an ADA compliant pedestrian access ramp from the street level to the sidewalk along each such frontage. The map of ADA accessible on-street parking spaces is available at <https://www.cityofboise.org/departments/finance-and-administration/parking-services/downtown-parking/accessible-parking>.<sup>559</sup>

<sup>556</sup> New.

<sup>557</sup> New.

<sup>558</sup> New.

<sup>559</sup> New, to reflect current practice.

#### 4. Standards Applicable to Subdivisions<sup>560</sup>

##### A. Purpose<sup>561</sup>

The intent of this Section 11-04-06.4 is to ensure that new or redesigned street and street patterns shall be designed to:

- (1) Provide safe and convenient access for bicyclists, pedestrians, and vehicles to and from perimeter public or private streets, parks, schools, public facilities, public and private institutions within the Subdivision Plat, and to and from similar uses and facilities on properties adjacent to the Subdivision Plat to the maximum extent practicable.
- (2) Provide safe and convenient access for bicyclists and pedestrians to and from existing pathways and trails on adjacent properties or designated on the Subdivision Plat or adopted plans of the City.
- (3) Accommodate pedestrian and bicycle traffic on streets, or on off-street pathways in cases where the street network cannot be designed to accommodate pedestrian or bicycle traffic due to soil, topography, easement, or other constraints.
- (4) Except for designated collector and arterial streets, allow free flow of local traffic within the Subdivision Plat, and to and from properties adjacent to the land included in the Subdivision Plat, without accessing the collector-arterial network.
- (5) Incorporate traffic calming strategies into local street networks to the maximum extent practicable. Traffic calming devices that can significantly impede the response of or possibly damage emergency vehicles, such as speed-bumps are not allowed.

##### B. Public Streets<sup>562</sup>

###### (1) General

Public streets shall be dedicated to and owned by the Ada County Highway Department, Idaho Department of Transportation, or other governmental or quasi-governmental entity.<sup>563</sup>

###### (2) Street Design

- (a) The design of all public streets shall conform to requirements as established by the ACHD, the Idaho Department of Transportation, and NACTO street designs.
- (b) Street intersections in residential areas may be of a "T" rather than an "X" design wherever such design will not unduly restrict a free movement of traffic.<sup>564</sup>

###### (3) Street Grades<sup>565</sup>

Street grades shall comply with applicable ACHD and fire safety standards.

###### (4) Dead-End Streets

Dead-end streets shall not be permitted, except that streets terminating at the boundary of a subdivision may be allowed when ACHD or City Council agrees the extension of the

<sup>560</sup> Deleted current Section 11-07-04.5, Micro-Paths to avoid overlap with similar regulations related to internal pedestrian connections. All references to "townhouse dwelling units" have been replaced with "Single-Family Attached Dwellings". Text allowing the creation of reserve strips was deleted as never used and inconsistent with current City policy.

<sup>561</sup> New, to better align with Blueprint Boise.

<sup>562</sup> Carried forward current 11-09-03.4, unless otherwise noted.

<sup>563</sup> Replaces vague standards related to location and design.

<sup>564</sup> Current 11-09-03.1.A.

<sup>565</sup> Replaces subjective text on allowable grades.

street is necessary for the proper development of the street pattern. A sign indicating the street is planned to be extended in the future will be installed at the end of the street.

#### (5) Street Names

Street names shall be as assigned by the Ada County Land Records Division.

#### (6) Street Access<sup>566</sup>

- (a) Each lot shall have direct access to a public street that has been improved to applicable public street standards and has been dedicated to and accepted by the Ada County Highway District, or shall have access to a private street that has been improved to applicable private street standards.<sup>567</sup>
- (b) If alley access to individual lots is available, the creation of new access points from that lot onto an abutting street shall be prohibited unless the Planning Director determines that use of the alley access is impracticable due to the nature or operating characteristics of the proposed use on the lot.
- (c) Where alley access is not available or use of alley access is impracticable, street access points between abutting parcels shall be consolidated to the maximum extent practicable.
- (d) Where alley access is not available and a lot has frontage on two or more streets, a single street access point shall be located on the street with the lowest traffic volume to the maximum extent practicable.

#### (7) Insufficient Roadway Width<sup>568</sup>

If full public right-of-way improvements are not feasible and the Ada County Highway Department determines there is insufficient roadway pavement width for travel lanes with on-street parking, a non-landscaped, ACHD approved, shoulder barrier such as curbing, fencing, or other means shall be installed. The shoulder treatment shall be of the minimum width necessary to accommodate parallel parking. Landscaping shall be required to the edge of the parking shoulder.

### C. Private Streets<sup>569</sup>

#### (1) General<sup>570</sup>

Private streets are strongly discouraged and shall only be permitted in unique circumstances. Where permitted by this Code, private streets shall be located and designed to:

- (a) Provide safe and effective movement of vehicular and pedestrian traffic;
- (b) Not adversely affect access to adjacent properties or the public transportation network;
- (c) Not interfere with public access to adjacent property or places of public interest;
- (d) Not connect one public street to another;

<sup>566</sup> New. Replaces outdated text on reserve strips in 11-09-03.1.B.

<sup>567</sup> New.

<sup>568</sup> Relocated from current Substandard Original Lots of Record and Duplex/Triplex standards to be generally applicable for roadway projects.

<sup>569</sup> Carried forward 11-09-03.5.

<sup>570</sup> Reworded for clarity, and standard b is new.



- (e) Not interrupt the continuity of public streets; and
- (f) Comply with the ACHD structural standards for streets, as shown on design and construction documents prepared and certified by a registered professional engineer.

**(2) Single-family- Detached/Single-Family Attached/Duplex Residential**

- (a) Private streets are permitted in Single-Family Detached, Single-Family Attached, and Duplex Dwelling developments, provided they comply with the general requirements in Subsection (1) above and:
  - i. The parcel shape or site topography will not allow street design to meet ACHD width standards for public streets; or
  - ii. Compliance with ACHD requirements is in conflict with the intent of minimizing disruption to vegetation or other topographical elements required by Section 11-02-07.3.D, *HS-O: Hillside Development Overlay*.
- (b) Private streets shall comply with the standards in Table 11-04.8.

**TABLE 11-04.8: PRIVATE RESIDENTIAL STREET STANDARDS: SINGLE-FAMILY DETACHED, SINGLE-FAMILY ATTACHED, DUPLEX<sup>571</sup>**

| NUMBER OF RESIDENTIAL LOTS VS. STREET LENGTH | MINIMUM ROW WIDTH (FEET)       | STREET WIDTH BACK OF CURB TO BACK OF CURB (FEET) | SIDEWALK REQUIRED BOTH SIDES | SIDEWALK EASEMENT ALLOWED |
|--|--------------------------------|--|------------------------------|---------------------------|
| Up to 3 lots w/ length less than 200 feet    | 24                             | 24   | Yes                          | Yes [1]                   |
| Up to 3 lots w/ length greater than 200 feet | 28 (24 for the final 200 feet) | 28/24  | Yes                          | Yes [1]                   |
| 4 to 10 lots w/ length less than 200 feet    | 24                             | 24   | Yes                          | Yes [1]                   |
| 4 to 10 lots w/ length greater than 200 feet | 28 (24 for the final 200 feet) | 28/24  | Yes                          | Yes [1]                   |
| 11 or more lots                              | 40                             | 28   | Yes                          | Yes [1]                   |

**Notes:**

[1] Setback requirements shall be from the back of sidewalk when sidewalks are placed within an easement. If sidewalks are separated from the street by landscaping, only the setback for the garage door portion of the building shall be measured from the back of sidewalk.

- (c) If sidewalks are detached or placed within an easement, building setback requirements shall be measured from back-of-sidewalk or the property line, whichever requires the larger setback, unless sidewalks are separated from the street by landscaping, in which case only the setback for the garage portion of the building shall be required to be set back from back of sidewalk.

<sup>571</sup> Updated current sidewalk standards to require sidewalks on both sides of the street and eliminated allowance for a sidewalk on only one side of the street.

**(3) Triplex, Fourplex, Multifamily and Mixed-Use Developments<sup>572</sup>**

Private streets serving Triplex, Fourplex, and Multifamily Dwellings are permitted provided they comply with the general requirements in Subsection (1) above and the following standards:

- (a) Private streets shall comply with the dimensional requirements for service drives for multifamily developments as described in Section 11-04-06.5.A(4), *Service Drives*.
- (b) Pedestrian and bicycle facilities shall be constructed to provide continuous, safe, and efficient facilities.<sup>573</sup>
- (c) If the private street serves 40 or more dwelling units, the standard in Subsection (3)(a) above may be adjusted if the applicant provides evidence that no portion of the private street will exceed 240 vehicles trips per day.<sup>574</sup>
- (d) All utility easements shall be within, or immediately adjacent to, the private streets.

**(4) Commercial or Industrial Developments<sup>575</sup>**

Private streets used solely for commercial or industrial purposes shall be a minimum of 24 feet in width and shall have curbs, gutters, and detached sidewalks.

**D. Common Driveways<sup>576</sup>**

Common driveways are subject to the following requirements:

- (1) The common driveway benefits the design of the development and reduces the number of public street accesses.
- (2) The common driveway provides access to no less than two and no more than six lots, each occupied with one Single-Family Detached or Single-Family Attached Dwelling unit. A Minor Land Division shall not result in a common driveway being used to serve more than four lots. Approval of a common driveway serving five or six lots shall require approval of a Subdivision Plat.<sup>577</sup>
- (3) The maximum length is 150 feet, unless approved by the Fire Department, and the minimum width is 20 feet. "No parking" signs shall be placed on the common driveway.
- (4) A five foot wide landscaped area is required between the common driveway and lots that do not use the common driveway.
- (5) The minimum street frontage requirement of each flag lot served by the common driveway is five feet.
- (6) Lots that abut a common driveway shall take access from the common driveway and not the public right-of-way.
- (7) A perpetual ingress/egress access easement and an agreement for maintenance for the paved driveway and any required landscaping shall be recorded prior to issuance of

<sup>572</sup> Text significantly simplified, but coverage of the standards expanded to apply to multifamily development, which are not addressed by current standards. Revised to (a) delete requirement that "land saved" by private streets be used for common open space – which tends to increase housing prices, (b) delete requirement for completion of a PUD for circulation, which is inconsistent with desire to avoid unnecessary PUDs and unnecessary in light of new access and connectivity provisions.

<sup>573</sup> New.

<sup>574</sup> Incomplete reference to approved internal circulation was deleted as unclear.

<sup>575</sup> Revised to require that all streets have curb, gutter, and detached sidewalks.

<sup>576</sup> Current 11-07-02.1.C carried forward unless otherwise noted.

<sup>577</sup> Last sentence is new.

Building Permits. For Minor Land Divisions, a copy of the easement or agreement shall be submitted for the lots to be deemed legal.

- (8) Required off-street parking shall be set back a minimum of 20 feet from the edge of the common driveway.
- (9) In the case of a Subdivision Plat, the common driveway and utilities shall be constructed concurrently with all other public improvements.

#### E. Alleys

- (1) The minimum alley width for a one-way alley shall be 12 feet.
- (2) The minimum alley width for a two-way alley shall be 20 feet.
- (3) Alley construction shall meet ACHD standards.

#### F. Cul-de-Sacs<sup>578</sup>

Cul-de-Sacs shall connect to the closest local or collector street, to adjacent cul-de-sacs, and to any adjacent public open space, park, or school via a pedestrian easement or right-of-way at least 15 feet in width that includes a sidewalk, multi-use pathway, or trail at least 10 feet in width unless deemed impracticable by the Planning Director. The pedestrian easement or public right-of-way shall be indicated on the Subdivision Plat, and interior side yard setbacks applicable to the district where the cul-de-sac is located shall apply to the lots abutting the easement or right-of-way.

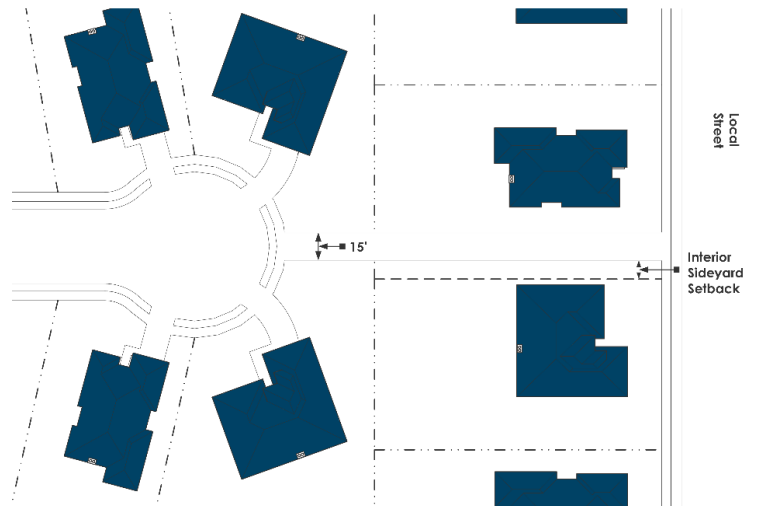


Figure 4-9. Cul-de-Sac Design

#### G. Block Size and Design<sup>579</sup>

Where a Subdivision Plat includes new or relocated streets in a Residential or Mixed-Use zoning district, the dimensions of each new block created shall meet the following standards to the maximum extent practicable in light of topographic conditions.

- (1) If 50 percent or more of the perimeter of the Subdivision Plat is adjacent to already-subdivided land in Residential or Mixed-Use zoning districts (the Adjacent Subdivided

<sup>578</sup> New standard to increase connectivity and pedestrian- and vehicle-friendly travel.

<sup>579</sup> New maximum block length limitation to encourage more compact, pedestrian-friendly lot layout.

Parcel(s)), the average length and width of new blocks shown on the plat shall not be more than 25 percent longer or shorter than the average length and width of blocks on the Adjacent Subdivided Parcel(s) nearest the parcel being subdivided. For example, if the Adjacent Subdivided Parcel(s) blocks nearest the Subdivision Plat have an average length of 400 feet and an average width of 250 feet, the average length of blocks shown on the Subdivision Plat shall be between 300 and 500 feet, and the average width shall be between 188 and 313 feet.

- (2) If less than 50 percent of the perimeter of the Subdivision Plat is adjacent to already-subdivided land in Residential or Mixed-Use zoning districts, the length of new blocks created shall not exceed 330 feet in width and 660 feet in length.
- (3) Each block shall be bordered by public or private streets meeting the requirements of this Section 11-04-06.4 and with all applicable Ada County Highway District Technical Requirements, or by private common space or dedicated park land or open space at least 30 feet in width.
- (4) As an alternative to Subsection (2) above, all infill residential development containing between 12 and 20 acres of land may contain at least one internal public or private street that integrates with the surrounding street network and that complies with all applicable Ada County Highway District Technical Requirements.
- (5) The Planning Director may adjust the standard in Subsection (a) above if the Director determines that a larger perimeter is necessary because of constraints on the design of access to the development parcel or unusual train or site conditions that make it impracticable to design blocks of this size, and that the reduced internal vehicle, bicycle, and pedestrian circulation caused by the larger block perimeter have been mitigated to the maximum extent practicable.<sup>580</sup>

#### H. Cross- Access between Adjacent Mixed-Use and Nonresidential Uses<sup>581</sup>

All subdivisions or reconfigurations of contiguous platted lots for mixed-use or nonresidential development shall comply with the following standards.

- (1) To the maximum extent practicable, each lot layout shall be designed to allow for cross-access to adjacent properties to encourage shared parking and access points on public or private streets. This may be established by one or more of the following:
  - (a) Connecting streets and driveways;
  - (b) Coordinating parking lot and parking structure entrances;
  - (c) Common service/delivery areas;
  - (d) Legally shared parking lots and parking structures;
  - (e) Linkages between parking lots and parking structures; or
  - (f) Providing shared access for two adjacent lots from public rights-of-way to minimize curb cuts.
- (2) When cross-access is deemed impractical by the Planning Director and/or City Engineer on the basis of topography, the presence of natural features, or vehicular and/or pedestrian safety, this requirement may be waived provided that appropriate bicycle and

<sup>580</sup> New in Consolidated Draft to allow flexibility to respond to unique site conditions.

<sup>581</sup> New standards to improve pedestrian and vehicular accessibility between mixed-use and nonresidential sites.

pedestrian connections are provided between adjacent Mixed Use or Nonresidential developments or land uses.

#### **I. Pedestrian and Bicycle Connectivity and Circulation<sup>582</sup>**

All subdivisions and reconfigurations of lots shall comply with the following standards. In the event of a conflict between these standards and those in another provision of this Code, the standard requiring the greater level of connectivity shall apply.

##### **(1) Sidewalks<sup>583</sup>**

Unless otherwise required by specific standards applicable to the Mixed-Use zoning district, or by the Boise Pathways Plan or other adopted City or ACHD plans or standards:

- (a)** Detached sidewalks shall be required on both sides of all arterial, collector, and local streets, including cul-de-sacs.<sup>584</sup>
- (b)** Sidewalks shall be a minimum of five feet wide and shall be separated from the curb by a minimum distance of eight feet to accommodate buffering and street trees required by Section 11-04-08.4, *Street Frontage Landscaping*.
- (c)** Any mailboxes, signs, utility equipment, or other items located within or near any sidewalk shall be located in an area that preserves a five foot clear passageway for pedestrians at all points on the sidewalk.

##### **(2) Bikeways**

Designated bicycle lanes are required in the design of all arterial, collector, and local streets as shown in the network maps included in the ACHD Roadways to Bikeways Plan, Boise Pathways Plan, Ada County Ridge-to-Rivers Trails Plan and other adopted plans.

##### **(3) Multi-Use Pathways<sup>585</sup>**

To the maximum extent practicable, multi-use pathways, separated from vehicular traffic, are required where indicated on the Boise Pathways Plan, Ada County Ridge-to-Rivers Trails Plan, or other plans adopted by the City, and the land or public easement to accommodate such pathways shall be dedicated to the City.

##### **(4) Connection to Sidewalks, Bikeways, and Multi-Use Pathways**

Each extension or connection of a public street or right-of-way to an abutting property, street, or public right-of-way shall include the extension or connection of associated bikeways, sidewalks, multi-use pathways, or trails.

##### **(5) Pedestrian Access<sup>586</sup>**

Additional pedestrian access a minimum of 10 feet in width shall be provided and constructed within the development if the Planning Director deems the access essential to provide pedestrian access to schools, playgrounds, shopping areas, transportation, or other community facilities.

<sup>582</sup> New, unless otherwise noted.

<sup>583</sup> Revised for internal consistency with more detailed Mixed-Use district standards provided by staff.

<sup>584</sup> Expanded current reference to only "street." Revised to require that all new sidewalks be detached, to prohibit obstructions of clear pedestrian passage, and to delete exceptions for sidewalks less than 5 feet in width.

<sup>585</sup> Dedication text is new.

<sup>586</sup> Carried forward current 11-09-04.8. Revised to clarify this is a decision of the Planning Director rather than City Council, to limit the required access to 10 feet in width

**(6) Consent of Irrigation Easement Holder<sup>587</sup>**

If one or more pedestrian or bicycle facilities required by this Section 11-04-06.4.I is proposed to be located within or across an irrigation easement, the applicant shall coordinate with the irrigation company to determine if the facility can be built within the irrigation easement. If the irrigation company does not allow the facility to be built within the easement, it is the responsibility of the applicant to identify another location within the applicant's control for the facility or crossing. Refusal of an irrigation company to allow an pedestrian or bicycle facility to cross an irrigation easement shall not excuse the applicant from the responsibility to provide the facility or crossing.

**(7) Design Standards**

The design of all sidewalks, bikeways, and multi-use paths shall conform to requirements as established in the relevant adopted City or ACHD plan or technical manual.

**5. Standards Applicable to Site Development<sup>588</sup>****A. General Ingress and Egress<sup>589</sup>****(1) Transit Stops<sup>590</sup>**

- (a)** Where an adopted plan of the City or a transit agency recognized by the City identifies a future transit stop location, no permanent or temporary structure shall be located any portion of the site identified for that transit stop, or for access points or parking facilities required by this Code.
- (b)** Use of those portions of the site shall be limited to required landscaping, buffering, and open space until arrangements for the dedication or acquisition of that portion of the site for transit stop purposes is finalized, or until the City or the transit agency that designated the location indicates in writing that it is no longer needed for transit stop purposes.

**(2) Gated Entryways<sup>591</sup>**

After the Effective Date, the use of access control gates to restrict to access to new or existing developments in any Residential or Mixed-Use zoning district or any portion of a Planned Unit Development with land uses and development densities similar to those in the Residential or Mixed-Use districts, as determined by the Director, is prohibited.

**(3) Driveways<sup>592</sup>**

- (a)** Where lots are platted with alleys, access to parking garages or parking areas on all lots shall be from alleys rather than from driveways leading to a public or private street abutting the lot, unless the Director determines that the size length of length

<sup>587</sup> New.

<sup>588</sup> Deleted current 11-07-04.E. however similar and expanded provisions are captured in this new Section.

<sup>589</sup> Current 11-07-04.3.C text to minimize driveways was not carried forward as too vague to be enforced and likely to be inconsistent with other Code requirements.

<sup>590</sup> New.

<sup>591</sup> New in Consolidated Draft.

<sup>592</sup> Current 11-07-04.A. Reference to variance process was not carried forward as unnecessary (that is true of many Director decisions). Subsection (a) is new.

of vehicles associated with a nonresidential use makes alley access to the parcel impracticable.<sup>593</sup>

- (b) Except as stated in Subsection (a) above, driveways providing reasonable access to required private or public parking areas including garages may extend through the front or street side setback in a perpendicular manner provided they comply with Section 11-04-06.5.A(4), below.
- (c) Except as stated in Subsection (a) above, driveways that extend through the setback in other than a perpendicular manner may be approved due to physical limitations of the site or for aesthetic or safety purposes. the Planning Director may approve driveways upon a determination that the following:
  - i. The driveway is required to enhance the aesthetics of the site such as preserving existing trees; or
  - ii. The driveway is required for safety reasons such as avoiding backing into a busy street or a street with limited motorist visibility.
- (d) A driveway for a Single-Family Detached Dwelling and for a Duplex Dwelling shall be a minimum of nine feet in width and shall not exceed 20 feet in width unless a different maximum width is permitted or required by another provision of this Code or an adopted City standard.<sup>594</sup>

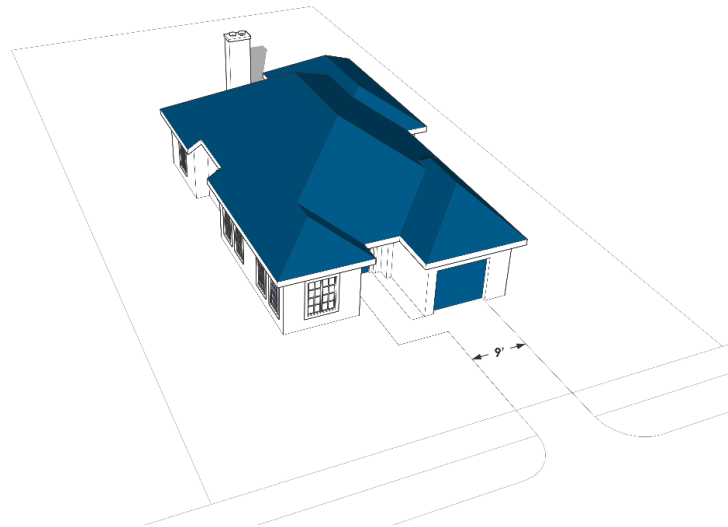


Figure 4-10. Driveway Width

#### (4) Service Drives<sup>595</sup>

##### (a) Standards

- i. Service drives shall not be located where they will impede abutting property from having access to at least one public or private street, or where they will interrupt the continuity of public streets.

<sup>593</sup> Broadened to apply to all new development, not just residential development, in Consolidated Draft.

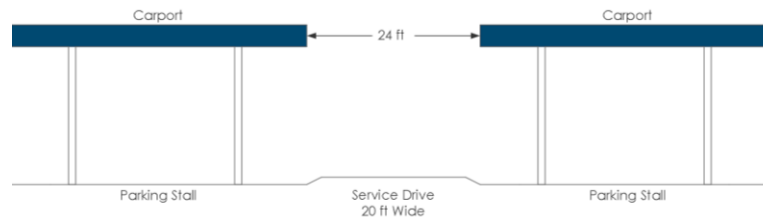
<sup>594</sup> Current standard relocated from the service drive standards and revised to include a maximum width limitation

<sup>595</sup> Current 11-07-04.B. Deleted redundant standards and deleted text requiring a traffic plan prepared by a traffic engineer for service drives serving more than 40 dwelling units as inconsistent with current City practice.

- ii. Service drives shall not encourage or promote pass through between public or private streets.
- iii. Service drives shall intersect a street at a 90 degree angle, unless otherwise approved by the City and the Ada County Highway District.
- iv. Each service drives identified as a fire access drive shall comply with all applicable Fire Department standards.

**(b) Widths**

- i. Drive-through lanes and associated escape lanes shall each be a minimum of 10 feet wide.
- ii. One-way service drives without parking on either side shall be a minimum of 10 feet wide. Two-way service drives without parking on either side shall be a minimum of 20 feet wide.
- iii. The width of a service drive at the point where it intersects with a public or private street shall be a minimum of 10 feet in width if the street is limited to one-way traffic, or a minimum of 20 feet in width if the street accommodates two-way traffic.<sup>596</sup>
- iv. The width of a service drive between building appurtenances such as carport overhangs shall be a minimum of 24 feet.



**Figure 4-11. Service Drive Width**

- v. Where a service drive provides access to a garage, the garage shall be set back from the service drive so that the combined distance of the service drive width and the garage setback is at least 22 feet.<sup>597</sup>

<sup>596</sup> Revised to clarify that 20 feet is the minimum width (not an exact width). New minimum width for one-way traffic streets.

<sup>597</sup> Current standard simplified.



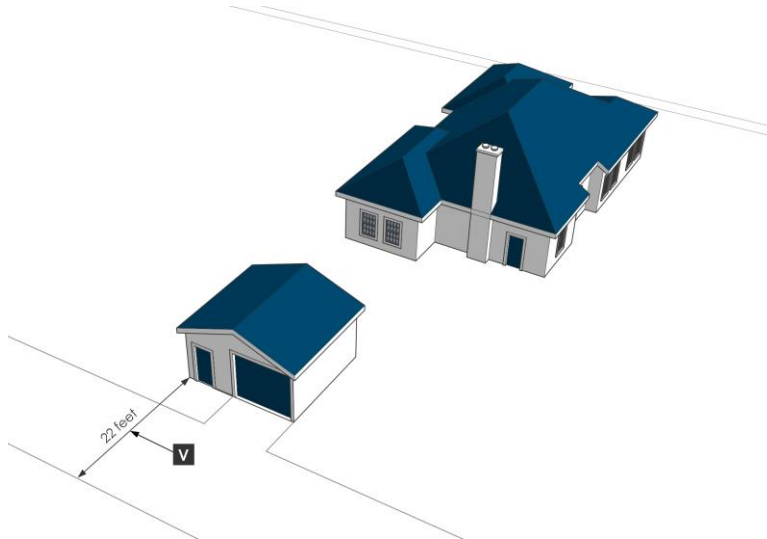


Figure 4-12. Garage Setback From Service Drive

- vi. Except at the intersection of a service drive and public road, the service drive shall be narrowed to 20 feet where it crosses a crosswalk.

**(c) Grade**

Maximum grade for service drives shall be 10 percent unless a steeper grade is specifically approved by the City Engineer and the Fire Code Official. A maximum grade of two percent, unless specifically approved by the ACHD and City Engineer, shall be required for the initial 80 feet from the intersecting curb to provide a landing at the junction of the service drive and the public right-of-way.

**B. Mixed-Use, Industrial, and Open Land and Institutional Districts Vehicular Circulation<sup>598</sup>**

In the Mixed-Use, Industrial, and Open Land and Institutional zoning districts, access to lots located on arterial streets shall provide site access meeting the requirements below.

- (1) Access points shall use flared or channelized intersections and shall be oriented at right angles to the street.
- (2) Curb cuts shall be minimized and located a minimum of 200 feet from each other, or meet ACHD requirements, whichever is more restrictive.
- (3) Vehicle entrances and exits shall be located at least 50 feet from any intersecting street right-of-way.
- (4) Vehicle entrances and exits shall be located at least 10 feet from an adjacent property line, except where one, shared driveway can be established to serve both the subject property and the adjacent property.
- (5) Primary circulation and access points shall be oriented toward the abutting street with the lowest traffic volume, unless the Planning Director approves an alternative due to pedestrian, bicycle, or traffic safety concerns.<sup>599</sup>

<sup>598</sup> New

<sup>599</sup> Revised from "predominantly non-single-family residential streets" to "street with the lowest traffic volume."

- (6) Private full movement driveways giving access to the development shall be aligned across arterial, collector and local streets to contribute to circulation efficiency.

### C. Pedestrian Access and Connectivity<sup>600</sup>

#### (1) Required Connections

All lots that contain a nonresidential principal use, shall provide the following pedestrian connections, as applicable:

- (a) A safe, convenient, and accessible pedestrian connection from the main entrance of a building to a public sidewalk and/or internal walkway that connects to a public sidewalk.
- (b) Connections between internal and perimeter sidewalks at a maximum of 1,320 feet along the perimeter street.
- (c) Walkways between the principal entrance of each building in a development containing more than one building.
- (d) Connections to any sidewalks on adjacent properties that extend to the boundaries of such properties. Multiple pedestrian connections between adjacent developments shall be provided to the maximum extent practicable.
- (e) Connections to community facilities on site, including, but not limited to, trash collection areas, mail collection facilities, and site amenities.<sup>601</sup>
- (f) Connections to any adjacent open space or park.

#### (2) Standards for Pedestrian Connections<sup>602</sup>

- (a) Each site shall include sidewalks at least five feet wide, on both sides of each streets, unless otherwise specified by district-specific requirements for the Mixed-Use zoning districts, or as otherwise required by the Boise Pathways Plan or other adopted City or ACHD plan. All sidewalks shall be sited and illuminated appropriately to provide safe passage and observation of the pathway route.<sup>603</sup>
- (b) Mixed-use development and Multifamily Dwellings within one-quarter mile of a transit station shall include a direct, on-site pedestrian connection to the transit station to the maximum extent practicable. If that is not practicable, a direct pedestrian connection to a public sidewalk leading to the nearest transit station with signage directing pedestrians the station shall be provided on site.
- (c) Sidewalk crossings across service drives shall be provided and clearly distinguished from the service drive.<sup>604</sup>
- (d) At each point where a sidewalk must cross a parking lot, internal street, or driveway to make a required connection, it shall be clearly marked using a change in color, change in materials, change in elevation, or some combination of those techniques, some of which are illustrated in Figure 4-13, below. Sidewalks that must cross an internal street or driveway more than 30 feet wide shall include pedestrian islands in

<sup>600</sup> New.

<sup>601</sup> New.

<sup>602</sup> New, unless otherwise noted.

<sup>603</sup> Current 11-07-04.4.

<sup>604</sup> Current 11-07-04.4.

the middle of the crossing or curb extensions at the outer edges of the crossing to reduce the width of the pedestrian crossing to the maximum extent practicable.

**Change in  
Paving  
Materials**



**Change in  
Paving Color**



**Figure 4-13. Options for Required Pedestrian Crossings**

## 6. Compliance with Design Standards

- A.** In addition to the standards required by this Section 11-04-05.6, all multiple-family, mixed-use, and nonresidential development shall comply with the standards and other mandatory content in the Citywide Design Standards and Guidelines and the Downtown Design Standards and Guidelines, as applicable in the area where the property is located.
- B.** In the event of a conflict between the standards in this Section 11-04-05.6 and applicable standards in the Citywide or Downtown Design Standards and Guidelines, the provision requiring the higher level of safety and visual building quality and interest, as determined by the Planning Director, shall apply.

### 11-04-07. Parking and Loading<sup>605</sup>

#### Commentary:

This Section has been reorganized and updated to remove or adjust some parking requirements and to introduce flexibility to limit the adverse impacts of excessive parking while providing safe parking and loading areas that support multi-modal transportation options.

**Minimum and maximum off-street parking requirements.** This Section includes significant updates to the off-street parking requirements. The new summary table directly aligns with the proposed Table of

<sup>605</sup> Current 11-07-03.

Allowed Uses and for the purpose of this draft, shows the current standards as well as the new recommended standards. Rather than using the 150% or 175% of minimum requirements based on total number of parking spaces (more than 20 and 20 or less, respectively), this draft takes a more tailored approach based on the typical needs of different land uses. In many cases, maximums were deleted because there is little or no risk of applicants over-supplying parking spaces, and the impact of any oversupply would be minimal. New minimum standards for electric vehicle charging stations in larger parker lots are also included in this draft.

**Parking adjustments.** This Section includes a new approach to shared parking reductions that allows for administrative approval of reductions based on combinations of uses and eliminates the requirement to receive a Conditional Use Permit to reduce minimum requirements by greater than 10 percent. Existing parking reductions are carried forward and two new reductions are included for on-street parking availability and the inclusion of a transportation demand management plan in a development application.

**Vehicle parking location and design.** The current standards for the location, dimensional standards, and other parking area-specific standards are largely carried forward, but have been simplified and reorganized in some cases.

**Required bicycle parking.** This Section includes new content that further supports and ensures safe, secure, and appropriately designed bicycle parking facilities to support multi-modal travel throughout the City.

**Drive-through facilities, vehicle stacking, and loading facilities.** Currently, general drive-through stacking standards are distributed between some specific uses and districts, but do not include a minimum requirement. This new Section includes minimum number and location requirements for drive-through areas to mitigate impacts between such uses and adjacent properties, primarily residential in nature. The draft also includes a new, finer-grained approach to loading space requirements and includes requirements for drop-off/pick-up areas as these types of areas have become increasingly common in recent times.

## 1. Purpose<sup>606</sup>

The purpose of this Section 11-04-07 is to establish standards for vehicle and bicycle parking, on-site circulation, loading areas, and parking lot design to help protect the public health, safety, and general welfare by:

- A. Providing necessary access for service and emergency vehicles;
- B. Providing for safe and convenient interactions between motor vehicles, bicycles, and pedestrians;
- C. Encouraging active transportation options and enhanced pedestrian safety;
- D. Encouraging emission free vehicles;
- E. Providing flexibility to respond to the transportation, access, and loading impacts of various land uses in different areas of the city;
- F. Reducing stormwater runoff, reducing heat island effect from large expanses of pavement, improving water quality, and minimizing dust pollution;
- G. Mitigating traffic congestion;

<sup>606</sup> New expanded purpose statement.

- H. Avoiding overflow parking from mixed-use and nonresidential land uses in Residential zoning districts; and
- I. Mitigating the visual impact of large concentrations of exposed parking.

## 2. Applicability

### A. Generally<sup>607</sup>

Unless otherwise stated in this Code, the standards in this Section 11-04-07 shall apply to all uses in all zoning districts.

### B. Exceptions<sup>608</sup>

- (1) The MX-5 zoning district is exempt from the requirement to provide off-street parking spaces, but any parking spaces provided shall comply with all other standards in this Section 11-04-07.<sup>609</sup>
- (2) Structured parking facilities shall be exempt from maximum parking limits.

## 3. General Parking Standards

### A. Use of Parking Areas<sup>610</sup>

- (1) Required off-street parking facilities shall be used for vehicle parking only. Vehicle sales, rental and leasing, storage, repair, and other uses are prohibited, except for approved temporary and/or seasonal uses.<sup>611</sup>
- (2) No property owner or operator may designate any on-street parking space for the use of a specific establishment adjacent to or located on the same block face as the parking space, and no property owner or operator may limit the use of any on-street parking space by the general public by using the parking space for the operation of a valet parking service, without the prior written consent of the City.<sup>612</sup>

### B. Parking and Loading Calculations<sup>613</sup>

- (1) All square footage-based parking and loading requirements shall be computed based on the gross floor area of the subject use or structure, unless otherwise specified.
- (2) Parking spaces designed or designated exclusively for recreational vehicles, motorcycles, scooters, and other two-wheeled vehicles shall not be included in the calculation of minimum or maximum vehicle parking requirements.
- (3) Lots containing more than one use shall provide parking and loading based on the shared parking calculations in Section 11-04-07.6.A, *Shared Parking Facility Reduction*.

### C. Reductions of Existing Parking<sup>614</sup>

Off-street parking or loading spaces existing on the Effective Date shall not be permanently reduced in a way that would bring the property out of conformance with this Section 11-04-

<sup>607</sup> New.

<sup>608</sup> Exemption for lots under 5,000 sq. ft. in Mixed-Use, Industrial, Open Lands, and Institutional zoning district (subject to requirement not to remove existing parking spaces) was deleted in Consolidated Draft.

<sup>609</sup> Replaces the exemption currently found in the P-1 parking overlay district and references to the Downtown Planning Area.

<sup>610</sup> Current standard requiring parking spaces to be available on a first-come, first-serve basis (unless an exception is approved) was deleted as unnecessary and difficult to administer and enforce.

<sup>611</sup> Current 11-07-03.1.A(1), expanded to include repair activities.

<sup>612</sup> New, to reflect current practice.

<sup>613</sup> New Subsection providing consistent requirements for all parking calculations.

<sup>614</sup> New.

07 or would increase the degree of existing nonconformity with the provisions of this Section 11-04-07.

#### D. Parking for Unlisted Uses<sup>615</sup>

The Planning Director shall determine the required parking for uses not listed in Table 11-04.10: *Off-Street Parking Requirements*, based on expected volume of activity on the site, the level of congestion on surrounding streets, proximity to Residential zoning districts, and the factors listed in Section 11-03-01.7, *Classification of New and Unlisted Uses*.

### 4. Accessible Parking<sup>616</sup>

All development that provides on-site vehicle parking spaces shall comply with all applicable requirements of the Americans with Disabilities Act (ADA) and the International Building Code (IBC), and the standards in this Section 11-04-07.4. If the standards in this Section 11-04-07.4 conflict with the requirements of the ADA or IBC, the requirements of the ADA or IBC shall apply.

#### A. Amount of Accessible Parking Required

- (1) All development shall provide at least the following number of accessible parking spaces, unless a different number is required by Subsection (2) below:

| TABLE 11-04.9: REQUIRED NUMBER OF ACCESSIBLE PARKING SPACES |                                     |
|---|-------------------------------------|
| TOTAL PARKING SPACES IN LOT OR GARAGE                       | MINIMUM NUMBER OF ACCESSIBLE SPACES |
| 1 - 25  | 1                                   |
| 26 - 50   | 2                                   |
| 51 - 75   | 3                                   |
| 76 - 100  | 4                                   |
| 101 - 150   | 5                                   |
| 151 - 200   | 6                                   |
| 201 - 300   | 7                                   |
| 301 - 400   | 8                                   |
| 401 - 500   | 9                                   |
| 501 - 1,000   | 2% of the Spaces Provided           |
| 1,001 and Over  | 20 plus 1 for each 100 over 1,000   |

- (2) All facilities providing medical care and other services for persons with mobility impairments are required to provide additional accessible spaces as follows:

- (a) Outpatient facilities shall provide accessible spaces equal to 10 percent of the total number of required parking spaces.

<sup>615</sup> Expanded to list factors to be considered in Director's decision.

<sup>616</sup> Carried forward current 11-07-03.5 unless otherwise noted. Wording revised for clarity.

- (b) Facilities that provide services for individuals with mobility impairments shall provide accessible spaces that are equal to 20 percent of the number of required parking.

#### B. Additional Requirements

- (1) Valet parking facilities shall provide a passenger loading zone located on an accessible route to the entrance of the facility.
- (2) Accessible parking spaces shall not contain slopes in excess of two percent and shall not require access involving steps to or from adjoining pedestrian walkways.
- (3) Accessible spaces shall be located closest to the main entrance.
- (4) When there are multiple buildings or main entrances, accessible spaces shall be distributed equally.
- (5) Accessible spaces shall be clearly marked as spaces reserved for persons with disabilities.
- (6) When Section 11-04-07.5.C, *Electric Vehicle (EV) Parking Spaces*, requires the provision of any type of Electric Vehicle parking spaces, at least five percent of the required EV parking spaces shall also be accessible parking spaces.

#### C. Dimensions

##### (1) Length

All accessible spaces shall be a minimum of 20 feet in length.

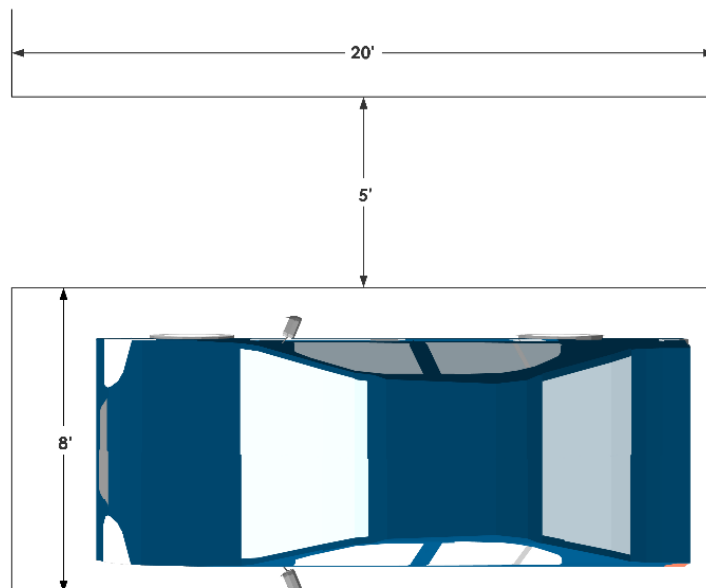


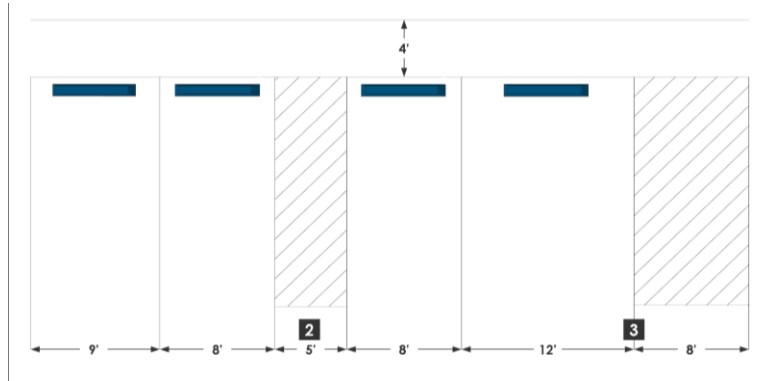
Figure 4-14. Access Aisle at Passenger Loading Zone

##### (2) Width

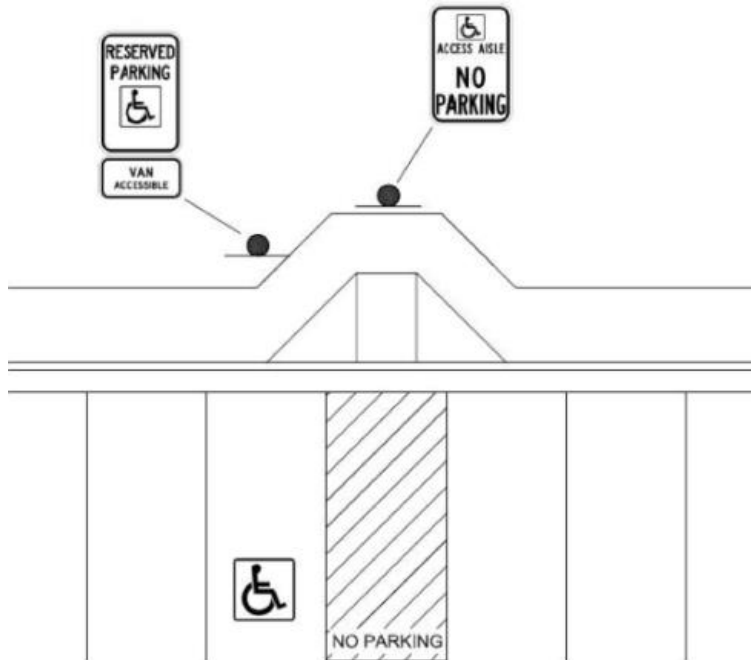
All accessible spaces shall be a minimum of eight feet in width plus a five foot wide adjacent access aisle, as shown in Figure 4-14.

**(3) Van Accessible<sup>617</sup>**

- (a) One in every six accessible spaces, but not less than one, shall have an adjacent access aisle eight feet in width and shall be designated as "Van Accessible."
- (b) Single van accessible parking spaces shall be located on the left side of the access aisle.

**Figure 4-15. Accessible Parking Space Dimensions****(4) Signage And Markings**

All access aisles shall install a sign reading "Access Aisle No Parking" and shall apply blue pavement markings reading "No Parking" with accompanying diagonal striping within the limits of the access aisle adjacent to the accessible space.

**Figure 4-16. Signage for Accessible Parking Spaces**

<sup>617</sup> Corrected current requirement for "one in eight" to "one in six" accessible spaces to comply with ADA standards.



## 5. Minimum and Maximum Off-Street Parking Standards<sup>618</sup>

- A. All development not exempted by the provisions of Section 11-04-07.2.B shall provide vehicle parking spaces in the amounts required by Table 11-04.10, below, as those amounts may be modified by Section 11-04-07.5.C, *Parking Adjustments* below.<sup>619</sup>
- B. No minimum parking requirements apply in the shaded area marked as P1 on the map in Figure 4-17.

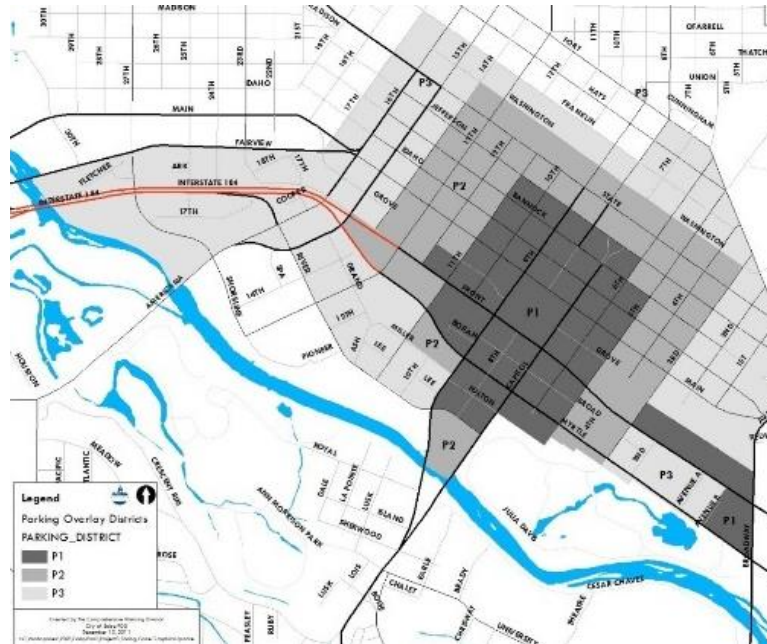


Figure 4-17. Parking Districts

TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>

| USE CATEGORY            | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED   |     |     |                             |                        |
|-------------------------|---|-----|-----|-----------------------------|------------------------|
|                         | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT * = DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |                             |                        |
|                         | CURRENT   |     |     | RECOMMENDED                 |                        |
|                         | GENERAL   | P-2 | P-3 | MINIMUM                     | MAXIMUM <sup>621</sup> |
| <b>Residential Uses</b> |   |     |     |                             |                        |
| <b>Household Living</b> |   |     |     |                             |                        |
| Accessory Dwelling Unit | 1 per DU P2 & P3= *   |     |     | See Section 11-03-03.2.B(7) |                        |

<sup>618</sup> Deleted references to and regulations of the P-2 and P-3 districts as obsolete.

<sup>619</sup> New table that aligns with the Table of Allowed Uses.

<sup>620</sup> The current Code includes an extraordinary number of discretionary parking requirements, which adds time, expense, and uncertainty to code administration and makes it difficult to predict parking impacts on surrounding properties. Almost all of those discretionary decisions have been replaced by proposed objective parking standards. Current standards are included for reference during review, but will be removed from the draft prior to adoption.

<sup>621</sup> The current maximum parking limits of 150% or 175% of minimum requirements based on total number of parking spaces (more than 20 and 20 or less, respectively) do not reflect best practices for parking management. Most newer Codes take a more tailored approach based on the typical needs of different land uses. In many cases, maximums were deleted because there is little or no risk of applicants over-supplying parking spaces, and the impact of any oversupply would be minimal.

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY                        | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |  |                          |
|-------------------------------------|--|-----|-----|--|--------------------------|
|                                     | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |  |                          |
|                                     | CURRENT  |     |     | RECOMMENDED  |                          |
|                                     | GENERAL  | P-2 | P-3 | MINIMUM  | MAXIMUM <sup>621</sup>   |
| Caretaker's Residence               | *  |     |     | 1 per DU   |                          |
| Dwelling, Single-Family Detached    | 2 per DU<br>P2=1 per DU P3=2 per DU  |     |     | 1 per DU   |                          |
| Dwelling, Cottage Village           |  |     |     | 1 per DU   |                          |
| Dwelling, Single-Family Attached    |  |     |     | 1 per DU   |                          |
| Dwelling, Live/Work                 |  |     |     | 2 per DU   |                          |
| Dwelling, Duplex                    | 2 per DU<br>P2=1 per DU P3=2 per DU  |     |     | 1-3 BR: 1 per DU<br>4+ BR: 0.75 per BR   |                          |
| Dwelling, Triplex                   |  |     |     |  |                          |
| Dwelling, Fourplex                  |  |     |     |  |                          |
| Dwelling, Multifamily               | Studio/ Efficiency: 0.75 per DU<br>1BR: 1 per DU<br>2BR: 1.25 per DU<br>3+BR: 1.5 per DU<br>Guest: 1 per 10 dwelling units<br>P2=0.8 per DU<br>P3=1 per DU         |     |     | Studio/Efficiency: 0.5 per DU<br>1BR: 1 per DU<br>2BR: 1.25 per DU<br>3+BR: 1.5 per DU<br>Guest: 1 per 10 DU<br>Permanent Supportive Housing: 75% of parking otherwise required for this use | 125% of required minimum |
| Manufactured Home                   | *  |     |     | 1 per DU   |                          |
| Manufactured Home Community         | *  |     |     | 1 per DU   |                          |
| Group Living                        |  |     |     |  |                          |
| Assisted Living Facility            |  |     |     | 1 per 3 beds   |                          |
| Boarding or Rooming House           | 1 per room<br>P2=0.56 per room<br>P3=0.8 per room  |     |     | 1 per room   |                          |
| Continuing Care Retirement Facility |  |     |     | 0.5 per du plus<br>1 per 4 beds  |                          |
| Convalescent or Nursing Home        | 0.25 per bed<br>P2=0.2 per bed<br>P3=0.25 per bed  |     |     | 0.25 per bed   |                          |
| Dwelling, Co-Housing                |  |     |     | Single BR Occupancy:<br>0.5 per DU<br>Other: 1 per DU  |                          |
| Fraternity or Sorority House        | 1 per resident<br>P2=0.5 per bed<br>P3=0.75 per bed  |     |     | 1 per bed  |                          |
| Group Home, FHAA Small              | 2 per DU   |     |     |  |                          |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY                            | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |   |                        |
|---|--|-----|-----|---|------------------------|
|   | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |   |                        |
|   | CURRENT  |     |     | RECOMMENDED   |                        |
|   | GENERAL  | P-2 | P-3 | MINIMUM   | MAXIMUM <sup>621</sup> |
| Group Home, FHAA Large                  | P2=1 per DU<br>P3=2 per DU   |     |     | 1 per 4 persons design capacity   |                        |
| Temporary Housing, Small                | 1 per 4 residents<br>P2=0.5 per every 4 occupants<br>P3=0.75 per every 4 occupants   |     |     | 50% of parking otherwise required for residential use in that type of structure |                        |
| Temporary Housing, Large                |  |     |     |   |                        |
| Public, Institutional, and Civic Uses   |  |     |     |   |                        |
| Adult or Child Day Care                 |  |     |     |   |                        |
| Adult or Child Day Care Facility        | Adult Care: *<br>Group Child Care Center:<br>1 per 10 children; min of 2   |     |     | 1 per 400 sf GFA  |                        |
| Adult or Child Day Care Center, Small   | Adult Care: *<br>Intermediate Child Care Center:<br>1 per 10 children; min of 2<br>P2 & P3=1 per 10 children   |     |     | 1 per 400 sf GFA  |                        |
| Adult or Child Day Care Center, Large   | Adult Care: *<br>Large Child Care Center:<br>1 per 10 children   |     |     | 1 per 400 sf GFA  |                        |
| Community and Cultural Facilities       |  |     |     |   |                        |
| Art Gallery, Museum, or Library         | 1 per 400 sf of GFA  |     |     | 1 per 400 sf GFA  | 2 per 400 sf GFA       |
| Cemetery                                | *  |     |     |   |                        |
| Community Center                        | N/A  |     |     | 1 per 400 sf GFA  | 2 per 400 sf GFA       |
| Fire, Police, or Public Safety Facility | N/A  |     |     |   |                        |
| Food Kitchen                            | *  |     |     |   |                        |
| Forest Reserve or Recreation Area       | *  |     |     |   |                        |
| Jail or Detention Facility              | N/A  |     |     | 3 per 1,000 sf GFA  |                        |
| Mortuary or Mausoleum                   | *  |     |     |   |                        |
| Park or Playground                      | *  |     |     |   |                        |
| Religious Institution                   | 0.20 per seat<br>P2=0.16 per seat<br>P3=0.2 per seat   |     |     | 1 per 400 sf GFA  |                        |
| Shelter Home                            | *  |     |     | *   |                        |
| Education and Health                    |  |     |     |   |                        |
| Hospital                                | 1 per bed<br>P2=0.66 per bed<br>P3=0.8 per bed   |     |     | 1 per bed design capacity   |                        |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY                               | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |  |                          |
|--|--|-----|-----|--|--------------------------|
|  | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS   |     |     |  |                          |
|  | CURRENT  |     |     | RECOMMENDED  |                          |
|  | GENERAL  | P-2 | P-3 | MINIMUM  | MAXIMUM <sup>621</sup>   |
| School                                     | Elementary, Middle, Junior High:<br>1 per classroom and 1 per employee<br>P2 & P3= 1 per classroom<br>High School: 7 per classroom and 1 per employee<br>P2 & P3=7 per classroom<br>Private Commercial School:<br>1 per 3 students |     |     | Elementary, Middle, Junior High: 1 per classroom<br>High School: 4 per classroom<br>Community College or Private Commercial School: 1 per 3 students design capacity | 125% of required minimum |
| University                                 | 0.3 per full-time student and 0.8 per faculty  |     |     | 65% of sum of parking requirements for individual facilities   |                          |
| Transportation                             |  |     |     |  |                          |
| Aircraft Landing Field                     | *  |     |     | Determined by airport management   |                          |
| Park and Ride Facility                     |  |     |     |  |                          |
| Transit Facility                           |  |     |     |  |                          |
| Transit Terminal                           | *  |     |     |  |                          |
| Commercial Uses                            |  |     |     |  |                          |
| Agriculture and Animal Uses                |  |     |     |  |                          |
| Agricultural Uses or Stables               | *  |     |     |  |                          |
| Animal Daycare or Kennel                   | *  |     |     | 2.5 per 1,000 sf GFA   |                          |
| Animal Hospital or Clinic                  | 1 per 300 sf<br>P2=0.66 per 300 sf 1 <sup>st</sup> floor; 0.25 per 300 sf other floors<br>P3=0.8 per 300 sf 1 <sup>st</sup> floor; 0.5 per 300 sf other floors   |     |     | 2.5 per 1,000 sf GFA   |                          |
| Commercial Feedlot                         | *  |     |     |  |                          |
| Slaughterhouse, Rendering Plant            | *  |     |     |  |                          |
| Urban Farm                                 | *  |     |     |  |                          |
| Food and Beverage Service                  |  |     |     |  |                          |
| Brewpub, Micro-distillery, or Micro-winery | 1 per 3 seats<br>P2=0.25 per 3 seats<br>P3=0.33 per 3 seats  |     |     | 3 per 1,000 sf GFA   | 5 per 1,000 sf GFA       |
| Food Truck Court                           |  |     |     |  |                          |
| Neighborhood Café                          |  |     |     | 1 per 2,000 sf GFA   | 4 per 2,000 sf GFA       |
| Restaurant                                 | 1 per 3 seats<br>P2=0.25 per 3 seats<br>P3=0.33 per 3 seats  |     |     | 5 per 1,000 sf GFA   | 7 per 1,000 sf GFA       |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY                           | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |                     |                    |  |                          |
|--|--|---------------------|--------------------|--|--------------------------|
|  | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |                     |                    |  |                          |
|  | CURRENT  |                     |                    | RECOMMENDED                                |                          |
|  | GENERAL  | P-2                 | P-3                | MINIMUM                                    | MAXIMUM <sup>621</sup>   |
| Tavern or Lounge                       | 1 per 3 seats<br>P2=0.25 per 3 seats<br>P3=0.33 per 3 seats  |                     |                    | 5 per 1,000 sf GFA                         | 7 per 1,000 sf GFA       |
| Lodging                                |  |                     |                    |  |                          |
| Bed and Breakfast                      | *  |                     |                    | 1 per guest bedroom plus 1 for manager     |                          |
| Hotel or Motel                         | 1 per room<br>P2=.056 per room<br>P3=0.8 per room  |                     |                    | 1 per guest bedroom                        | 125% of required minimum |
| Recreation Vehicle Park                | *  |                     |                    | 1 per RV spot                              |                          |
| Office, Personal and Business Services |  |                     |                    |  |                          |
| Financial Institution                  | 1 per 300 sf<br>P2=0.33 per 300 sf<br>P3=0.5 per 300 sf  |                     |                    | 3 per 1,000 sf GFA                         |                          |
| Medical or Dental Clinic               | 1 per 300 sf<br>P2=0.66 per 300 sf 1 <sup>st</sup> floor; 0.25 per 300 sf other floors<br>P3=0.8 per 300 sf 1 <sup>st</sup> floor; 0.5 per 300 sf other floors     |                     |                    | 1 per 300 sf GFA                           | 5 per 1,000 GFA          |
| Office                                 | 1 per 300 sf<br>P2=0.66 per 300 sf 1 <sup>st</sup> floor; 0.25 per 300 sf other floors<br>P3=0.8 per 300 sf 1 <sup>st</sup> floor; 0.5 per 300 sf other floors     |                     |                    | 1 per 400 sf GFA                           | 4 per 1,000 sf GFA       |
| Personal and Business Service          | 1 per 300 sf   |                     |                    | 1 per 400 sf GFA                           | 4 per 1,000 sf GFA       |
| Recreation and Entertainment           |  |                     |                    |  |                          |
| Auditorium or Theater, Indoor          | Auditorium, Stadium, or Lecture Hall Seating > 500: *<br>Theater: 0.25 per seat  |                     |                    | 1 per 4 seats in main assembly area        | 125% of required minimum |
| Club, Lodge, or Social Hall            | 1 per 250 sf GFA   | 0.14 per 250 sf GFA | 0.2 per 250 sf GFA | 1 per 400 sf GFA                           |                          |
| Conference or Event Center             | 1 per 100 sf GFA   | 1 per 100 sf GFA    | 1 per 100 sf GFA   | 3 per 1,000 sf GFA                         | 125% of required minimum |
| Firing Range, Indoor                   | *  | *                   | *                  | 2 per 1,000 sf GFA                         |                          |
| Golf Course                            | 4 per hole and 1 per 3 seats of restaurant and bar area  |                     |                    | 5 per 1,000 sf GFA of restaurant /bar area |                          |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY               | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |  |                          |
|----------------------------|--|-----|-----|--|--------------------------|
|                            | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS   |     |     |  |                          |
|                            | CURRENT  |     |     | RECOMMENDED  |                          |
|                            | GENERAL  | P-2 | P-3 | MINIMUM  | MAXIMUM <sup>621</sup>   |
| Recreation, Indoor         | Bowling Alley: 4 per lane and 1 per 3 seats in restaurant/bar area<br>P2=1 per lane and 1 per 7 seats in restaurant/bar area<br>P3=2 per lane and 1 per 5 seats in restaurant/bar area<br>Health Club: 1 per 250 sf GFA<br>Indoor Recreation: 1 per 100 sf GFA<br>P2=0.33 per 100 sf GFA<br>P3=0.66 per 100 sf GFA<br>Recreation Center: 1 per 100 sf GFA<br>Theater: 0.25 per seat<br>P2=0.14 per seat<br>P3=0.2 per seat |     |     | Bowling Alley: 2 per lane<br>All other: 4 per 1,000 sf GFA | 150% of required minimum |
| Recreation, Outdoor        | Outdoor Recreation: 20 per acre<br>P2=10 per acre<br>P3=15 per acre<br>Private Amusement Park, Ball Park, Race Track or Similar Establishment: 0.25 per seat<br>P2=0.125 per seat<br>P3=0.167 per seat<br>Swimming Pool, Commercial: *   |     |     | 1 per 1,000 sf GFA of indoor facilities                    |                          |
| Retail                     |  |     |     |  |                          |
| Building Materials         | 1 per 600 sf GFA<br>P2=0.5 per 600 sf GFA<br>P3=0.75 per 600 sf GFA  |     |     | 1 per 500 sf GFA   | 125% of required minimum |
| Retail Sales, Neighborhood |  |     |     | 0.5 per 1,000 sf GFA                                       | 2 per 1,000 sf GFA       |
| Retail Sales, Small        | 1 per 300 sf GFA<br>P2=0.33 per 300 sf GFA<br>P3=0.5 per 300 sf GFA  |     |     | 3 per 1,000 sf GFA   |                          |
| Retail Sales, Medium       | 1 per 300 SF GFA<br>P2=0.33 per 300 sf GFA<br>P3=0.5 per 300 sf GFA  |     |     | 2.5 per 1,000 sf GFA                                       |                          |
| Retail Sales, Large        | 1 per 300 SF GFA<br>P2=0.33 per 300 sf GFA<br>P3=0.5 per 300 sf GFA  |     |     | 1 per 500 sf GFA   | 125% of required minimum |
| Retail Sales, Big Box      | 1 per 300 SF GFA<br>P2=0.33 per 300 sf GFA<br>P3=0.5 per 300 sf GFA  |     |     | 2 per 1,000 sf GFA   | 125% of required minimum |
| Sexually Oriented Business |  |     |     |  |                          |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY   | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |   |                          |
|--|--|-----|-----|---|--------------------------|
|  | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |   |                          |
|  | CURRENT  |     |     | RECOMMENDED   |                          |
|  | GENERAL  | P-2 | P-3 | MINIMUM   | MAXIMUM <sup>621</sup>   |
| Sexually Oriented Business                             | 1 per 3 seats<br>P2=0.25 per 3 seats<br>P3=0.33 per 3 seats  |     |     | 3 per 1,000 sf GFA  | 125% of required minimum |
| Vehicles and Equipment                                 |  |     |     |   |                          |
| Parking Garage   | *  |     |     |   |                          |
| Parking Lot  | *  |     |     |   |                          |
| Service Station  | 1 per 300 sf GFA<br>P2=0.33 per 300 sf GFA<br>P3=0.5 per 300 sf GFA  |     |     | 3 per 1,000 sf GFA<br>retail, office, waiting area                        |                          |
| Vehicle Fleet Operations Center                        |  |     |     |   |                          |
| Vehicle Repair, Major                                  | 1 per 900 sf GFA<br>P2=0.5 per 900 sf GFA<br>P3=0.75 per 900 sf GFA  |     |     | 3 per 1,000 sf GFA<br>retail, office, waiting area plus 1 per service bay |                          |
| Vehicle Repair, Minor                                  | 1 per 500 sf GFA<br>P2=0.5 per 900 sf GFA<br>P3=0.75 per 900 sf GFA  |     |     | 3 per 1,000 sf GFA<br>retail, office, waiting area plus 1 per service bay |                          |
| Vehicle Sales, Rental, and Leasing, Light              | 1 per 600 sf GFA<br>P2=0.5 per 600 sf GFA<br>P3=0.75 per 600 sf GFA  |     |     | 3 per 1,000 sf GFA<br>retail, office, waiting area plus 1 per service bay |                          |
| Vehicle and Equipment Sales, Rental and Leasing, Heavy | 1 per 600 sf GFA<br>P2=0.5 per 600 sf GFA<br>P3=0.75 per 600 sf GFA  |     |     |   |                          |
| Vehicle Wash   | *  |     |     | 2 per 1,000 sf GFA<br>retail, office, waiting area                        |                          |
| Industrial Uses  |  |     |     |   |                          |
| Manufacturing and Processing                           |  |     |     |   |                          |
| Contractor Shop and Yard                               | *  |     |     |   |                          |
| Industry, Artisan                                      | N/A  |     |     | 2 per 1,000 sf GFA  |                          |
| Industry, Light  | 1 per 750 sf GFA or *<br>P2=0.5 per 750 sf GFA or *<br>P3=0.75 per 750 sf GFA or *   |     |     | 1 per 1,000 sf GFA  |                          |
| Industry, Heavy  | 1 per 750 sf GFA or *<br>P2=0.5 per 750 sf GFA or *<br>P3=0.75 per 750 sf GFA or *   |     |     | 1 per 1,000 sf GFA  |                          |
| Mining and Extraction                                  | *  |     |     |   |                          |
| Storage, Wholesale, and Warehousing                    |  |     |     |   |                          |
| Bulk Storage of Flammable or Dangerous Materials       | *  |     |     |   |                          |

**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY                              | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED  |     |     |   |                        |
|---|--|-----|-----|---|------------------------|
|   | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT *= DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |   |                        |
|   | CURRENT  |     |     | RECOMMENDED   |                        |
|   | GENERAL  | P-2 | P-3 | MINIMUM   | MAXIMUM <sup>621</sup> |
| Outdoor Storage                           | *  |     |     |   |                        |
| Self-Service Storage                      | 4 per facility<br>P2=2 per facility<br>P3=3 per facility   |     |     | 3 per 1,000 sf GFA of indoor office area                                  |                        |
| Trucking Terminal                         | *  |     |     |   |                        |
| Wholesale or Warehouse                    | 1 per 2,000 sf GFA<br>P2=0.5 per 1,000 sf GFA<br>P3=0.75 per 1,000 sf GFA  |     |     | 1 per 2,000 sf GFA<br>P2=0.5 per 1,000 sf GFA<br>P3=0.75 per 1,000 sf GFA |                        |
| Utility Uses                              |  |     |     |   |                        |
| Power Plant                               | *  |     |     |   |                        |
| Utility Facility, Minor                   | *  |     |     |   |                        |
| Utility Facility, Major                   | *  |     |     |   |                        |
| Waste and Salvage                         |  |     |     |   |                        |
| Composting Facility                       | *  |     |     |   |                        |
| Junkyard, Vehicle Salvage                 | *  |     |     |   |                        |
| Recycling Collection Facility             | *  |     |     |   |                        |
| Sanitary Landfill                         | *  |     |     |   |                        |
| Solid Waste Transfer Facility             | N/A  |     |     |   |                        |
| Accessory Uses                            |  |     |     |   |                        |
| Beekeeping                                | *  |     |     |   |                        |
| Drive-Through Facility                    | *  |     |     |   |                        |
| Electric Vehicle Charging Facility        | N/A  |     |     |   |                        |
| Food Truck, Accessory                     |  |     |     |   |                        |
| Home Occupation, Family Daycare Home      | *  |     |     |   |                        |
| Home Occupation, Group Daycare Facility   | 1 per 10 children  |     |     |   |                        |
| Home Occupation, Other                    | *  |     |     |   |                        |
| Livestock and Animals                     | *  |     |     |   |                        |
| Outdoor Storage, Accessory                | *  |     |     |   |                        |
| Renewable Energy Facility, Accessory      | N/A  |     |     |   |                        |
| Sidewalk Café                             |  |     |     |   |                        |
| Unlisted Uses Accessory to an Allowed Use | *  |     |     |   |                        |
| Temporary Uses                            |  |     |     |   |                        |



**TABLE 11-04.10: OFF-STREET PARKING REQUIREMENTS<sup>620</sup>**

| USE CATEGORY             | MINIMUM NUMBER OF SPACES REQUIRED/MAXIMUM ALLOWED   |     |     |             |                        |
|--------------------------|---|-----|-----|-------------|------------------------|
|                          | P2=PARKING AREA 2 P3=PARKING AREA 3<br>DU = DWELLING UNIT * = DIRECTOR DETERMINATION SF = SQUARE FEET<br>GFA = GROSS FLOOR AREA 1BR, 2BR, 3+BR = NUMBER OF BEDROOMS |     |     |             |                        |
|                          | CURRENT   |     |     | RECOMMENDED |                        |
|                          | GENERAL   | P-2 | P-3 | MINIMUM     | MAXIMUM <sup>621</sup> |
| Construction Office      |   | *   |     |             |                        |
| Mobile Food Truck        |   | N/A |     |             |                        |
| Safety Facility          |   |     |     | *           |                        |
| Sales and Leasing Office |   | *   |     |             |                        |
| Seasonal Sales           |   | *   |     |             |                        |

**C. Electric Vehicle (EV) Parking Spaces<sup>622</sup>**

All multiple-family, mixed-use, and nonresidential development shall comply with the Use-Specific Standards in Section 11-03-03.6.D, *Electric Vehicle Charging Station* and the following standards.

**(1) Number of EV Parking Spaces Required**

- (a) The project shall include at least the minimum number of EV parking shown in the following table:

**TABLE 11-04.11: REQUIRED NUMBER OF ELECTRIC VEHICLE PARKING SPACES**

| TOTAL PARKING SPACES IN LOT | MINIMUM NUMBER OF ELECTRIC VEHICLE SPACES                              |
|-----------------------------|--|
| 1 - 25                      | 1 EV Ready Parking Space   |
| 26 - 50                     | 2 Level 2 Charge Stations or DC Fast Chargers                          |
| 51 - 75                     | 3 Level 2 Charge Stations or DC Fast Chargers                          |
| 75 +                        | 5% of spaces equipped with Level 2 Charge Stations or DC Fast Chargers |

- (b) Each EV parking space provided shall be counted towards the minimum off-street parking requirements for the project, but shall not count against any limit on the maximum number of off-street parking spaces permitted.

**(2) Adjustment of EV Parking Requirements**

When the cost of installing EV parking spaces required by Subsection (1) above would exceed 10 percent of the total project cost, the applicant may submit to the Planning Director a cost estimate for the total project and for the EV installations required by this Section 11-04-07.5.C and may request a reduction in the EV parking requirements, and the Director may approve an adjustment in the required numbers or types of EV parking facilities to limit installation costs to no more than 10 percent of the total project costs.

<sup>622</sup> New standards to support an adequate supply of electric vehicle charging stations. Reference new definitions for EV-Installed, EV-Capable, EV-Ready, Level 2 Charge Stations and DC Fast Chargers.

**(3) Dimensions and Design**

- (a) All EV parking spaces shall meet the minimum dimensional standards of Section 11-04-07.
- (b) EV charging equipment shall be designed and located so as to not impede pedestrian or vehicle travel or create hazards within the public right-of-way.
- (c) Charging equipment shall be protected by wheel stops, bollards, or similar devices to prevent damage.
- (d) Charger cords shall be retractable or have a hanging or storage location outside of pedestrian pathways.
- (e) Cords connecting chargers to vehicles shall not cross driveways, sidewalks, or loading areas.
- (f) EV parking spaces with an installed Electric Vehicle Charging Station shall be signed to reserve the parking space for EV users.
- (g) All Electric Vehicle Charging Stations shall include an emergency power shutoff located in a location easily accessible by emergency responders.

**6. Parking Adjustments<sup>623</sup>**

The minimum and maximum parking requirements in Table 11-04.12 may be adjusted as described in this Subsection 6, provided that no combination of reductions in Subsections A through F shall result in the reduction of the minimum number of parking spaces required in Table 11-04.12 by more than 50 percent.

**A. Shared Parking Facility Reduction<sup>624</sup>**

- (1) Where two or more uses listed in Table 11-03.1: *Table of Allowed Uses* share a parking lot or garage, the total off-street parking requirement for those uses shown in Table 11-04.10: *Off-Street Parking Requirements* may be reduced by the factors shown in Table 11-04.12: *Shared Parking Reduction*.
- (2) For example, a development with 5,000 square feet of Small Retail space (3 per 1,000 square feet gross floor area) and 20, two-bedroom Multifamily Dwelling units (1.25 per dwelling unit) would take the total spaces required and divide by 1.2.

$$(15) + (25) = 40.$$

$$40/1.2 = 33.3$$

The shared parking requirement is 34 spaces.

<sup>623</sup> New. Replaces current parking reductions applicable to multifamily buildings in current Section 11-06-03.2.F. The Transit-Supportive Housing Reduction from the Housing Bonus Ordinance has been deleted.

<sup>624</sup> Renamed from "Common Facilities for Joint or Mixed Uses" Deleted application requirements for shared parking facilities and parking reductions – to be relocated to the City's website. New approach to shared parking reductions that allows for administrative approval of reductions based on combinations of uses and eliminates the requirement to receive a Conditional Use Permit to reduce minimum requirements by greater than 10 percent.

**TABLE 11-04.12: SHARED PARKING REDUCTION**

To calculate the shared parking reduction, add the requirements for each use category, then divide the sum by the factor indicated below.

| PROPERTY USE                                     | MULTIFAMILY DWELLINGS | PUBLIC, INSTITUTIONAL, OR CIVIC | FOOD, BEVERAGE, INDOOR ENTERTAINMENT, OR LODGING | RETAIL | OTHER COMMERCIAL |
|--|-----------------------|---------------------------------|--|--------|------------------|
| Multifamily Dwellings                            | 1.0                   |                                 |  |        |                  |
| Public, Institutional, or Civic                  | 1.1                   | 1.0                             |  |        |                  |
| Food, Beverage, Indoor Entertainment, or Lodging | 1.1                   | 1.2                             | 1.0  |        |                  |
| Retail   | 1.2                   | 1.3                             | 1.3  | 1.0    |                  |
| Other Commercial                                 | 1.3                   | 1.5                             | 1.7  | 1.2    | 1.0              |

(3) To calculate the revised minimum parking requirement, calculate the minimum off-street parking requirement individually for the two uses with the highest off-street parking requirement, and then divide that sum by the number shown in the cell for that combination of uses in Table 11-04.12.

(4) If more than two uses share a parking lot or structure, the reduction factors in Table 11-04.12 are applied only to the two uses with the highest parking requirements. The minimum parking required for the third and additional uses sharing the parking lot or facility are then added to the adjustment calculated in Subsection (2) above without further adjustment.

#### **B. Motorcycle Parking Reduction**

For every four motorcycle spaces provided, the number of standard vehicle spaces may be reduced by one, provided that each motorcycle parking space is at least four feet wide and at least 10 feet long, and is clearly posted or marked as a motorcycle parking space.

#### **C. Affordable and Sustainable/Resilient Housing Reduction<sup>625</sup>**

Affordable housing projects meeting the affordability and sustainability/resiliency requirements of Section 11-04-03.7, *Incentives*, shall be eligible for the parking reductions as forth in that Section.

#### **D. Adaptive Reuse Housing Reduction**

Adaptive reuse housing projects meeting the requirements of Section 11-04-03.7.D(5), *Adaptive Reuse Housing* shall be eligible for the parking reductions set forth in that Section.

#### **E. Transportation Demand Management Reduction<sup>626</sup>**

The Planning Director may allow a reduction in required parking for employers that enter into a Transportation Demand Management (TDM) Agreement that specifies how on-site parking will be reduced through property owner or operator programs or initiatives that reduce the

<sup>625</sup> Subsections C, D, and E were inserted for internal consistency with the Incentives section.

<sup>626</sup> New.

number of employees on-site. Any TDM Agreement, whether used independently or in combination with other allowed parking reductions, is subject to the 50 percent limitation on overall parking reduction. Such programs may include the following:

- (1) Compressed work week schedules;
- (2) Flexible arrival and departure times;
- (3) Telework opportunities; or
- (4) Incentives for employees to use alternative modes of transportation to the work place.

**F. Adjustments to Exceed Parking Maximums<sup>627</sup>**

Up to 10 percent of the parking maximum may be exceeded by the Planning Director through an administrative approval if the Director determines that:

- (1) The additional parking spaces are required to reduce adverse impacts to the surrounding neighborhood;
- (2) The additional parking is required due to unique characteristics of the use not generally shared by other uses in the same use category shown in Table 11-03.1: *Table of Allowed Uses*;
- (3) The additional parking does not cause a conflict between pedestrians and vehicles; and
- (4) The additional parking does not harm the site circulation or pedestrian access or increase pedestrian travel distance to the building from surrounding streets. Acceptable means to demonstrate adequate pedestrian access may include:
  - (a) Placement of buildings and building entrances near the street or near other main pedestrian routes;
  - (b) Clearly demarcating pedestrian pathways both through and around parking lots so drive aisle crossings are minimized; and/or
  - (c) Addition of landscaping between parking facilities and pedestrian paths.

## 7. Vehicle Parking Location and Design

### A. Location

#### (1) Off-Site Locations Permitted

Parking required by Table 11-04.12 shall be provided on the same lot or combination of contiguous lots for which it provides required parking, except that in the R-3, Mixed-Use, Industrial, or Open Land and Institutional zoning districts, parking may be located up to 600 feet from the lot containing the principal uses for which it provides parking. The Planning Director may require written evidence from the owner of the off-site location confirming the availability of the site to meet such parking requirements.<sup>628</sup>

<sup>627</sup> Current 11-07-03.3.D(3)(a) and (b) and (4).

<sup>628</sup> Provision allowing location of off-site employee up to 1,500 feet from the employment site was not carried forward due to difficulty of enforcement.

**(2) On-Site Location<sup>629</sup>****(a) Prohibited Location**

Perpendicular vehicle parking is prohibited within the public-right-of-way, and all vehicle parking is prohibited on undeveloped public right-of-way.<sup>630</sup>

**(b) Required Setbacks**

- i. In the Residential zoning districts, parking areas and parking spaces shall not be permitted in any required setback, except as follows:
  - A. Except for working vehicles in daily use parked on driveways, in front of homes, vehicles shall not be parked on:
    - (i) Required setback;
    - (ii) Unimproved parking areas (except per 3(b) below); or
    - (iii) Other areas not designed for vehicle parking.
  - B. Trailers, camp trailers, boats, boat trailers, recreational vehicles, and all other vehicles not in daily use are restricted from parking in the front and street side yard setbacks or unimproved parking areas.
  - C. Open air public or private parking areas and service drives in a Residential zoning district shall be permitted in side yards that do not abut a street, provided that a minimum five foot wide landscaping and screening area be constructed and maintained adjacent to the adjoining property line as provided for in Section 11-04-08.10.D(2), *Parking and Storage Areas*. For Single-Family Detached Dwelling uses in the R-1B, R-1C, and R-2 districts<sup>631</sup>, a three foot wide landscaping and screening area is required.
  - D. No commercial vehicle or trailer shall be parked, stored, or otherwise left unattended at any place in a Residential zoning district whether on public or private property for over two hours except while engaged in construction or any other permitted activity.
- ii. In the Mixed-Use, Industrial, or Open Land and Institutional zoning districts, parking areas and parking spaces shall not be permitted in any required setback, except as follows:
  - A. Rear setback areas shall not be used for off-street parking or loading areas unless the rear setback abuts an alley providing access to the parking spaces.
  - B. Side yards that do not abut a street may be used for unenclosed off-street parking provided that a minimum five foot wide landscape area is constructed and maintained along the abutting side property line.<sup>632</sup>

<sup>629</sup> Carried forward current 11-07-0. Subsections (1) and (2) clarified to apply to Mixed-Use, Industrial, and Open Land and Institutional zones for internal consistency.

<sup>630</sup> Current 11-06-03.1.B(1)(g)iii.

<sup>631</sup> Removed applicability in the R-3 district.

<sup>632</sup> Revised in Consolidated Draft to clarify that this refers to unenclosed parking; encroachments of parking and other structures into required setbacks is addressed in the Exceptions and Encroachments section.

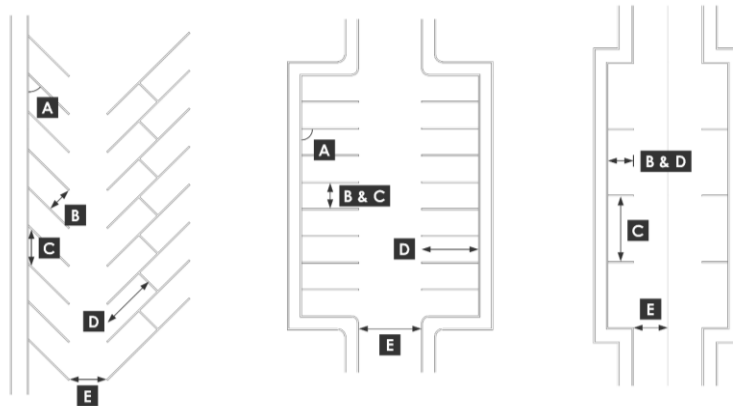
**(c) Site Layout<sup>633</sup>**

The following standards shall apply in the R-2, R-3, and Mixed-Use zoning districts, unless otherwise required by the Citywide or Downtown Design Standards and Guidelines, including but not limited to any Building Type Frontage Standards applicable to specific street segments.

- i. Surface parking areas shall be located to the side or rear of primary buildings.
- ii. For multi-building developments, no more than 50 percent of the primary street frontage shall be occupied by parking and vehicular access driveways.
- iii. Garage entries, carports, and parking structures shall be internalized in building groupings or oriented away from street frontage to the maximum extent practicable.

**B. Dimensional Standards<sup>634</sup>****(1) Surface Parking Lots and Areas**

Dimensions of all parking or maneuvering areas in surface parking lots shall be designed as required by Table 11-04.13 below, except that accessible parking spaces shall be designed as required by Section 11-04-07.4.



**Figure 4-18. Minimum Parking Lot Design Standards**

**TABLE 11-04.13: MINIMUM STANDARDS FOR PARKING LOT DESIGN**

| PARKING ANGLE<br>[A]         | STALL WIDTH<br>[B] | CURB LENGTH PER CAR<br>[C] | STALL DEPTH<br>[D] | DRIVEWAY WIDTH<br>[E] |
|------------------------------|--------------------|----------------------------|--------------------|-----------------------|
| <b>For Standard Vehicles</b> |                    |                            |                    |                       |
| 0°                           | 9 ft.- 0 in.       | 23 ft.- 0 in.              | 9 ft.- 0 in.       | 12 ft.- 0 in.         |
| 30°                          | 9 ft.- 0 in.       | 18 ft.- 0 in.              | 17 ft.- 8 in.      | 12 ft.- 0 in.         |
| 45°                          | 9 ft.- 0 in.       | 12 ft.- 9 in.              | 20 ft.- 5 in.      | 13 ft.- 0 in.         |
| 60°                          | 9 ft.- 0 in.       | 10 ft.- 5 in.              | 21 ft.- 10 in.     | 16 ft.- 0 in.         |
| 90°                          | 9 ft.- 0 in.       | 9 ft.- 0 in.               | 20 ft.- 0 in.      | 22 ft.- 0 in.         |

<sup>633</sup> Paragraphs (1) and (2) are currently applied to specific frontage types in the Citywide Design Guidelines and applied broadly, (3) is new.

<sup>634</sup> Current standards in 11-07-03.4, unless otherwise noted.

**TABLE 11-04.13: MINIMUM STANDARDS FOR PARKING LOT DESIGN**

| PARKING<br>ANGLE<br>[A]                   | STALL WIDTH<br>[B] | CURB<br>LENGTH PER<br>CAR<br>[C] | STALL DEPTH<br>[D] | DRIVEWAY<br>WIDTH<br>[E] |
|---|--------------------|----------------------------------|--------------------|--------------------------|
| <b>For Compact Vehicles<sup>635</sup></b> |                    |                                  |                    |                          |
| 0°  | 7 ft.- 6 in.       | 18 ft.- 0 in.                    | 7 ft.- 6 in.       | 12 ft.- 0 in.            |
| 30°                                       | 7 ft.- 6 in.       | 15 ft.- 0 in.                    | 14 ft.- 0 in.      | 15 ft.- 0 in.            |
| 45°                                       | 7 ft.- 6 in.       | 10 ft.- 7 in.                    | 15 ft.- 11 in.     | 15 ft.- 0 in.            |
| 60°                                       | 7 ft.- 6 in.       | 8 ft.- 8 in.                     | 16 ft.- 9 in.      | 15 ft.- 0 in.            |
| 90°                                       | 7 ft.- 6 in.       | 7 ft.- 6 in.                     | 15 ft.- 0 in.      | 23 ft.- 0 in.            |

**(2) Compact Spaces<sup>636</sup>**

- (a) A maximum of 40 percent of the total spaces required may be designed, designated, and used for compact size vehicles. The dimensional standards for compact vehicle spaces and driveways are indicated in Table 11-04.13 above.
- (b) Compact spaces shall be clearly marked for use by compact vehicles on the pavement or curb.

**(3) Bumper Overhang<sup>637</sup>**

Parking stall length may be reduced to 18 feet when the adjacent sidewalk or landscaping is increased by two feet above the minimum requirement. The minimum width for a sidewalk or landscape strip adjacent to a bumper overhang is seven feet.

**(4) Parking Structure Space Dimensions<sup>638</sup>**

- (a) Spaces within parking structures shall be a minimum of eight and one-half feet wide and 18 feet long.
- (b) Compact parking stalls shall not be provided within parking structures.<sup>639</sup>
- (c) Structural columns may encroach up to six inches into parking spaces.

**C. Tandem Parking<sup>640</sup>**

Unless otherwise provide elsewhere in this Code, tandem parking for indoor parking for Single-Family Detached, Single-Family Attached Dwellings, and Manufactured Home Communities is allowed.

<sup>635</sup> Standards revised in Consolidated Draft.

<sup>636</sup> Carried forward current 11-04-03.4.A(3). Revised to apply to spaces required rather than spaces provided.

<sup>637</sup> Current 11-07-03.4.(C)(7). Dimension for sidewalk increased from six feet.

<sup>638</sup> Current 11-07-03.4.A(2). Standard requiring driving aisles to be consistent with other commercial parking practices was deleted as vague and unnecessary in light of building code requirements.

<sup>639</sup> New.

<sup>640</sup> Current 11-07-03.4.A(4), broadened to apply to Single-Family Attached Dwellings and Manufactured Housing Communities and limitations removed. Requirement that residential driveways be located at least 50 feet from public street intersections was not carried forward.

**D. Driveways<sup>641</sup>**

- (1) All driveways shall extend into the site approximately perpendicular to the street from which they provide access, unless the Planning Director approves an alternative based on a determination that the driveway:
  - (a) Shall not have a negative impact on adjacent properties; and
  - (b) Is needed to provide access to a parking garage or structure; and
  - (c) Is required because of physical limitations of the site; or
  - (d) Will enhance the aesthetics of the site (including preserving trees); or
  - (e) Is required for safety reasons such as preventing vehicles from backing into a street.
- (2) All parking areas, driveways, and other vehicular access for Single-Family Detached, Duplex, Triplex, or Fourplex dwellings may consist of wheel strips, pavers, or other hard surface material approved by the Planning Director. Gravel surfacing is allowed for non-required parking spaces and driveways outside front and street side setbacks. Other residential uses are subject to standards in accordance with Subsection F, below.<sup>642</sup>
- (3) Driveways for Single-Family Detached or Duplex Dwellings shall be a minimum of nine feet in width. Driveways or service drives for other residential uses are subject to Section 11-04-06.5.A(4), *Service Drives*.
- (4) Driveways are permitted in the front and street side setbacks in accordance with Section 11-04-06.5.A(4), *Service Drives*.
- (5) For Single-Family Detached Dwellings, individual driveways in the front or street side setback shall not exceed a width of 30 feet within the setback, unless another provision of this Code requires a narrower width.<sup>643</sup>
- (6) Parking on Small Lots is regulated by Section 11-04-03.3, *Residential Small Lots*.

**E. Surfacing**

Driveways, parking areas and vehicle storage areas shall be built with a non-permeable material such as concrete or asphalt, unless the Planning Director approves an alternative surface based on considerations of durability, permeability, and visual interest and quality, or unless one of the following exceptions applies:<sup>644</sup>

- (1) A gravel surface may be used within the I-1 or I-2 zoning districts for enclosed material storage yards or grounds maintenance areas. The storage and maintenance areas shall be located behind the building and be enclosed by a six foot high sight obscuring fence.
- (2) Use of gravel parking shall be approved by the Fire Department and the Works Department to ensure compliance with best management practices.

**F. Residential Garages<sup>645</sup>**

- (1) Street access is prohibited when alley access is available.
- (2) Residential garages that provide a single space shall be a minimum of 10 feet wide and 20 feet long.

<sup>641</sup> Simplified current standard in 11-07-03.4(C)(3). Relocate definition of "individual driveways" to Chapter 11-06.

<sup>642</sup> Expanded to apply to triplexes and fourplexes.

<sup>643</sup> Dimension reduced from 33 feet.

<sup>644</sup> Applicability expanded to vehicle storage areas.

<sup>645</sup> Carried forward current 11-07.2.4. Exceptions allowing curb cuts when alley access is available were removed. Subsection (2) is new.



(3) Residential garages shall provide 22 feet of back up space.

#### **G. Parking Area Landscaping<sup>646</sup>**

All development shall comply with Section 11-04-08, *Landscaping, Fencing, Walls, and Screening*.

#### **H. Parking Area Lighting<sup>647</sup>**

All development shall comply with Section 11-04-010, *Exterior Lighting*.

### **8. Required Bicycle Parking<sup>648</sup>**

#### **A. Amount Required**

- (1) Each nonresidential primary structure shall provide the following, depending on the category of the use as shown in Table 11-03.1: *Table of Allowed Uses*.<sup>649</sup>
  - (a) Food and Beverage Service, Recreation and Entertainment, and Retail uses shall provide a minimum of five bicycle spaces, plus one additional bicycle space for every 500 square feet of gross floor area.
  - (b) Industrial Uses shall provide a minimum of two bicycle spaces, plus one additional bicycle space for every 4,000 square feet of gross floor area.
  - (c) All other nonresidential uses shall provide a minimum of five bicycle spaces, plus one additional bicycle space for every 1,000 square feet of gross floor area.
- (2) Primary structures containing Multifamily Dwelling uses shall provide at least five bicycle spaces for short-term bicycle parking, plus, one additional bicycle parking space per each dwelling unit for long-term bicycle parking.

#### **B. Location**

- (1) Short-term bicycle spaces designed to meet the needs of visitors to the development shall be located within 50 feet from the main entrance of the building.
- (2) Short-term bicycle racks shall be located so that they:
  - (a) Are easily accessed from the street and protected from motor vehicles;
  - (b) Are visible to passers-by to promote usage and enhance security;
  - (c) Do not impede or interfere with pedestrian traffic or routine maintenance activities; and
  - (d) Do not block access to buildings, bus boarding or freight loading.
- (3) Long-term bicycle spaces shall be designed to meet the needs of employees, residents, public transit users, and others with similar needs.
- (4) Long-term bicycle parking shall be covered and secured to the maximum extent practicable. Covered bicycle parking includes but is not limited to a secure and accessible room in a building, a secure and accessible enclosure within a parking structure, or a cluster of bicycle lockers at a transit station.

<sup>646</sup> New general cross-reference to the landscaping standards.

<sup>647</sup> Deleted general requirement that lights shall not shine directly on adjacent residential land uses and added a cross-reference to the Exterior Lighting Standards.

<sup>648</sup> This Subsection has been revised to include new content that further supports and ensures safe, secure, and appropriately designed bicycle parking facilities including graphic examples of bicycle facilities.

<sup>649</sup> New.

**C. Design Standards**

- (1) If more than 10 bicycle parking spaces are required, a minimum of 25 percent of the required bicycle parking spaces shall be covered.
- (2) No more than 50 percent of the required bicycle parking spaces may require the bicycle to be hung or parked vertically, rather than being parked with both tires on the ground.<sup>650</sup>
- (3) Bicycle parking spaces shall be a minimum of six feet long and two and one-half feet wide and have an overhead clearance of seven feet if covered.
- (4) A four foot wide aisle is required between rows of bicycle parking spaces or between a row of bicycle parking spaces and any wall.
- (5) Three and one-half feet of clearance shall be provided between bicycle parking spaces and vehicle parking spaces or travel lanes for the opening of passenger-side doors.
- (6) Bicycle racks shall be located on improved non-permeable surfaces and shall be anchored to the ground.
- (7) Bicycle racks shall provide two points of contact with the bicycle frame such as an inverted "U" or a post and ring. Wave, schoolyard, wheel well, bollard and spiral racks are prohibited.

**Figure 4-19. Examples of Allowed Bicycle Racks****Figure 4-20. Examples of Prohibited Bicycle Racks**<sup>650</sup> New.

## 9. Drive-Through Facilities and Vehicle Stacking Areas<sup>651</sup>

### A. Applicability

The following standards apply to all uses constructing or installing vehicle stacking and/or Drive-Through Facilities after the Effective Date.

### B. Number of Vehicle Stacking Spaces Required

Vehicle stacking spaces shall be provided in accordance with Table 11-04.14, below, unless the Planning Director determines that additional spaces are required to avoid traffic congestion on abutting collector or arterial streets.

| TABLE 11-04.14: MINIMUM VEHICLE STACKING SPACE REQUIREMENTS |                          |
|---|--------------------------|
| USE   | REQUIRED STACKING SPACES |
| Food and Beverage Service                                   | 3 per service lane       |
| Other Uses  | 2 per service lane       |

### C. Location<sup>652</sup>

- (1) Required vehicle stacking spaces shall not interfere with access to parking spaces or with multi-modal access to, from, or through the site and shall not create adverse noise, light, or other impacts on adjacent properties.
- (2) Where properties are located adjacent to a Residential district, electronic devices such as loudspeakers, automobile service order devices, and similar sound sources related to the use shall not exceed 55 decibels as measured at the property line with any adjacent Residential district.
- (3) Drive-through lanes shall be separated from the sidewalk by a planting strip of at least five feet in width.<sup>653</sup>
- (4) Where pedestrian routes cross drive-through lanes, a crosswalk that is raised or features a change in texture and/or other treatment shall be used to enhance the safety and visual appearance of the pedestrian crossing.<sup>654</sup>
- (5) Drive-through facilities shall be designed to meet all applicable standards in Sections 11-04-03.4, *Neighborhood Transition Standards* and 11-03-03.6.C, *Drive-Through Facility*.

## 10. Off-Street Loading Facilities

All primary commercial and industrial uses shall comply with the standards in this Section 11-04-07.10 regarding the provision of vehicle loading spaces.

### A. Quantity and Size<sup>655</sup>

The quantity and size of loading spaces required shall be as indicated in Table 11-04.15, below.

<sup>651</sup> New standards, unless otherwise noted. Currently, general drive-through stacking standards are distributed between some specific uses and districts, but do not include a minimum requirement.

<sup>652</sup> Wording revised for consistency.

<sup>653</sup> From Citywide and Downtown Design Standards and Guidelines.

<sup>654</sup> From Citywide and Downtown Design Standards and Guidelines.

<sup>655</sup> New finer-grained approach to loading space requirements. Updated loading space size to reduce minimum size requirements for buildings between 10,000 and 50,000 square feet.

**TABLE 11-04.15: REQUIRED OFF-STREET LOADING SPACES**

| GROSS FLOOR AREA<br>(SQUARE FEET) | NUMBER OF LOADING<br>SPACES REQUIRED  | MINIMUM SIZE OF EACH REQUIRED<br>LOADING SPACE     |
|-----------------------------------|---|--|
| Less than 20,000                  | None  | N/A  |
| 20,000-49,999                     | 1   | 10 feet x 25 feet                                  |
| 50,000-99,999                     | 2   | One 10 feet x 25 feet and<br>One 12 feet x 50 feet |
| 100,000 and more                  | 2, plus 1 additional space<br>for every 100,000 square<br>feet beyond the first 100,000 | 14 feet x 50 feet and 13 feet high                 |

**B. Standards**

- (1) Loading areas shall comply with setback and landscaping requirements.
- (2) Loading areas shall not be oriented toward Residential zoning districts and shall not be permitted between the primary facade of a building and the front lot line.
- (3) Loading areas shall be clearly posted or marked.
- (4) For buildings greater than 20,000 square feet in the MX-5 zoning district, applicants may request approval of alleys for loading activities as an alternative to on-site loading area.
- (5) Loading spaces and access routes to loading spaces shall not interfere with parking lot or parking garage maneuvering areas or with designated on-site patron drop-off/pick up locations.<sup>656</sup>

**11. Compliance with Design Standards**

- A. In addition to the standards required by this Section 11-04-07, all multiple-family, mixed-use, and nonresidential development, including but not limited to Parking Garages shall comply with the standards and other mandatory content in the Citywide Design Standards and Guidelines and the Downtown Design Standards and Guidelines, as applicable in the area where the property is located.
- B. In the event of a conflict between the standards in this Section 11-04-07 and applicable standards in the Citywide or Downtown Design Standards and Guidelines, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

**11-04-08. Landscaping, Fencing, Walls, and Screening**

**Commentary:**

**Organization.** This Section has been significantly reorganized for user-friendliness and logical flow as well as revised to support Blueprint Boise's goals to "promote water conservation," "preserve native vegetation and encourage appropriate use of native landscape materials," and "support landscape areas that minimize polluted runoff and mimic natural watershed processes." The Section includes key content from the Citywide and Downtown Design Standards and Guidelines, but not those standards related to high visibility street corners or gateway sites.

<sup>656</sup> New reference to drop-off/pick-up areas.

**General landscaping standards.** This Section includes general requirements for landscape materials, placement and installation of trees, berms, clear areas, water efficiency, irrigation, and installation. Minor changes to current standards are proposed throughout based on best practices for high-quality landscaping that is sensitive to limited water availability and other general climatic concerns. The water-efficiency standards introduce several new requirements intended to further the goal of ensuring water conservation in landscape design.

**Street frontage and site perimeter buffers.** These Sections carry forward the current requirements for street buffers, arterial and collector street buffers, and side and rear perimeter buffers with some revisions to improve consistency and clarity of the standards. The site perimeter buffer section introduces a new approach to land uses between buffers that carries forward the landscaping types and buffering requirements in the Citywide Design Standards and Guidelines, but applies it to all Residential zoning districts and mixed-use or nonresidential uses, regardless of location within the city.

**Parking lot interior landscaping.** This Section has been supplemented with several new standards including standards carried forward from the Citywide and Downtown Design Standards and Guidelines to limit large expanses of paved parking areas and encourage infiltration and passive treatment of stormwater within parking areas.

**Building foundation planting.** This is a new Section carried forward from the Citywide Design Standards and Guidelines that requires foundation plantings for all street-facing building elevations.

**Tree preservation and stormwater integration.** These Sections are carried forward with minimal changes.

**Fences, walls, and screening.** This Section carries forward the current standards for fences and walls with some revisions to content for clarity and consistency purposes. New screening standards include more detailed requirements for parking and storage areas and roof-mounted and ground-mounted mechanical and utility equipment to ensure the proper visual mitigation of these areas especially from pedestrian-level view.

## 1. Purpose<sup>657</sup>

The purpose of this Section 11-04-08 is to establish requirements for the design, installation, and maintenance of landscapes that:

- A. Contribute ecologically and aesthetically to the growth and economic prosperity of the City;
- B. Improve pedestrian comfort;
- C. Reduce the heat island effect;
- D. Promote the expansion of the tree canopy;
- E. Adequately screen the visibility of less desirable uses and functions;
- F. Achieve healthy, attractive, and safe environments based on recognized design and urban forestry principles;
- G. Encourage water conservation;
- H. Integrate storm water management features;
- I. Preserve native vegetation and encourage appropriate use of native landscape materials;

<sup>657</sup> From current 11-04-05.1, with several new purposes to better reflect Blueprint Boise.

- J. Minimize runoff of polluted water;
- K. Reduce adverse impacts to wildlife; and
- L. Conserve, protect and promote the natural identity and environment of the City.

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## 2. Applicability<sup>658</sup>

All applications for development or property use listed below shall comply with the provisions of this Section 11-04-08.

### A. Development

- (1) All new development involving the construction of new multiple-family, mixed-use and nonresidential buildings. Residential uses with four or fewer units in a single structure are exempt from these standards.
- (2) The expansion and alteration of the gross floor area of an existing multiple-family, mixed-use or nonresidential building by 50 percent or more.

### B. Change of Use

Any change of use to a property that never complied or no longer complies with the zoning requirements in existence at the time of the use was approved or began operation.

### C. Existing Parking Lots

- (1) When existing parking lots are re-striped or a new coat is applied to the surfacing, the applicant shall replace and repair the existing landscaping to the standards that applied at the time the related building was constructed or the related use began operations.<sup>659</sup>
- (2) When the area of an existing parking lot is replaced or is expanded up to 25 percent, the applicant shall replace and repair the existing landscaping to the standards that applied at the time the related building was constructed or the related use began operations and shall install parking lot perimeter landscaping that complies with Section 11-04-08.5.B(3).<sup>660</sup>
- (3) When the area of an existing parking lot is expanded by 26 percent or more, the applicant shall comply with all standards in this Section 11-04-08 regarding parking lot landscaping.<sup>661</sup>

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## 3. General Landscaping Standards<sup>662</sup>

### A. Landscape Plan Required

A landscape plan is required for all activities subject to this Section 11-04-08, regardless of whether the application is for a Zoning Certificate, Certificate of Appropriateness, Conditional Use Permit, Variance, or Minor or Major Project Design Review.

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<sup>658</sup> Carried forward 11-07-05.2.A unless otherwise noted. Reworded for clarity and to avoid repetition. Additional materials about required submittals and criteria for adopting master landscape plans in the current T-2 district were not carried forward, but some elements may be relocated to the City's website.

<sup>659</sup> Applicability to expansions of parking areas by 25% or more was not carried forward.

<sup>660</sup> Current applicability to expansions between 26 and 50% revised to 25%.

<sup>661</sup> Current applicability to expansions above 51% revised to 26%.

<sup>662</sup> Carried forward current 11-07-05.2.B. unless otherwise noted.

**B. Adopted Streetscape Plans**

Where the City has adopted streetscape standards for any street bordering a project site, and there is a conflict between the adopted streetscape standards and the standards of this Section 11-04-08, the adopted streetscape standards shall apply.

**C. Site Area Landscaping<sup>663</sup>**

- (1) Any part of a site not used for buildings, parking, driveways, walkways, utilities, or approved storage areas shall be retained in a natural state, reclaimed to its natural state, or landscaped pursuant to the standards in this Section 11-04-08.
- (2) Plants, walls, fences, buffering, and screening, located on adjacent properties do not satisfy landscape requirements for the subject property. All required landscaping shall be located on the property required to provide it pursuant to this Section 11-04-08.
- (3) If the location of any utility facility, utility easement, or service area required by adopted City or utility provider standards prevents the location of trees, shrubs, or other landscaping in locations required by this Section 11-04-08, the applicant shall be required to install equivalent numbers of trees, shrubs, or landscaping in other landscaped areas of the site.<sup>664</sup>

**D. Landscape Material Standards<sup>665</sup>**

**(1) Approved Plant Materials**

- (a) The latest edition of the Treasure Valley Tree Selection Guide, or any successor publication as determined by the Director of Parks and Recreation, is hereby adopted as the list of approved and recommended trees for on-site planting.
- (b) Plant selection, establishment, and maintenance for storm water facilities shall comply with the Public Works Department Stormwater Plant Materials Resource Guide to the maximum extent practicable.<sup>666</sup>
- (c) New plant varieties are being produced every year and other species not listed in the above publications or species which are more disease resistant, pest resistant, or drought tolerant may also be considered.

**(2) Prohibited Plant Materials**

The plants listed as Trees Not Permitted for Rights-of-Way Property Planting in the Treasure Valley Tree Selection Guide are prohibited from being planted along any street or within any parking lot subject to this Section 11-04-08.

**(3) Minimum Plant Sizes**

| TABLE 11-04.16: MINIMUM PLANT SIZES |                |
|-------------------------------------|----------------|
| TYPE OF PLANT                       | SIZE           |
| Shade/Ornamental Trees              | 2 inch caliper |
| Evergreen Trees                     | 6 foot height  |

<sup>663</sup> New.

<sup>664</sup> New.

<sup>665</sup> New subheading to consolidate the plant material standards in current 11-07-052.B. (1), (2), (3), (4), and (6). Tree selection guide reference revised from the Parks and Recreation guide throughout this Section.

<sup>666</sup> Vague encourage text replaced by maximum extent practicable.

**TABLE 11-04.16: MINIMUM PLANT SIZES**

| TYPE OF PLANT         | SIZE                    |
|-----------------------|-------------------------|
| Shrubs <sup>667</sup> | 3 gallon <sup>668</sup> |
| Perennials            | 1 gallon                |

#### (4) Species Diversity

##### (a) Trees

When five or more trees are to be planted to meet the requirements of any portion of this Section, a mix of species shall be provided as shown in Table 11-04.17 below:

**TABLE 11-04.17: TREE SPECIES MIX**

| REQUIRED NUMBER OF TREES  | MINIMUM NUMBER OF SPECIES |
|---|---------------------------|
| 5 - 10  | 2                         |
| 11 - 30   | 3                         |
| 31 - 50   | 4                         |
| 50+   | 5                         |
| When the total number of trees is greater than 10, one species cannot amount to more than 40% of the total. |                           |

##### (b) Other Plant Materials<sup>669</sup>

- i. To improve pollinator habitat, at least 25 percent of planted areas shall include native flowering and nectar producing plant species.
- ii. Where shrubs are required to be planted, up to 25 percent of the total number of required shrubs may be substituted with flowering perennials, grasses, or ferns<sup>670</sup>.

#### (5) Non-Vegetative Materials<sup>671</sup>

- (a) Non-vegetative materials, such as decorative rock, bark, and perma-bark, shall not count toward the minimum landscape requirement.<sup>672</sup>
- (b) The use of bark or other loose material shall be designed or located to keep the bark from being blown out of the planting area.
- (c) Non-vegetative material, including but not limited to mulch and rock, may only be used to augment the landscape or around the base of shrub groupings or flower beds, and shall not constitute the only ground cover in more than 20 percent of any area required to be landscaped.

<sup>667</sup> Deleted reference to "woody shrubs."

<sup>668</sup> Increased from 2 gallon.

<sup>669</sup> New.

<sup>670</sup> Dimension increased from 15%.

<sup>671</sup> Carried forward current 11-09-04.10.B. and applied generally to all landscaping. Provision waiving the limit if designed by a registered landscape architect was not carried forward as unusual and unnecessary.

<sup>672</sup> Replaced "in lieu of landscaping."



**(6) Mulch**

- (a) Organic mulch such as bark or soil aid shall be applied to all planting areas, except that rock mulch may be permitted as part of the approved landscape plan.
- (b) Planting areas using rock mulch shall have 50 percent of the ground surface covered by vegetation at plant maturity.
- (c) Natural colors shall be used and patterning of the materials is prohibited.
- (d) Use of mulch as the only ground cover in required planting areas is prohibited.
- (e) Impermeable plastic weed barrier under the mulch is prohibited.

**E. Water Efficiency and Xeriscaping Standards<sup>673</sup>**

The landscape plan shall provide for water efficient landscaping as follows:

**(1) Non-Potable Surface Water<sup>674</sup>**

- (a) To the maximum extent practicable, all requirements for landscape irrigation for all forms of development and redevelopment shall be met through the use of non-potable surface water available on the property.
- (b) If non-potable surface water supply is available prior to an Annexation of land or City approval of a change of use for the property pursuant to this Code, the use of such water shall be retained for landscaping irrigation purposes following such City approvals.

**(2) Xeriscaping<sup>675</sup>**

In addition to those standards in Subsections (3) through (5), below, the following principles shall apply to all required landscaped areas:

- (a) Design required landscaping to address the physical site characteristics of the property, the needs of those using the property and the best water-conserving methods.
- (b) Use mulches and water retaining soils to reduce evaporation, discourage weed growth and keep the soil cool.

**(3) Lawn Areas**

- (a) Lawn areas shall be a drought-tolerant and/or adaptive sod or seed mix that is appropriate to the natural conditions found at the site.<sup>676</sup>
- (b) Lawn areas larger than 15,000 square feet shall have soil moisture sensors that are properly installed and adjusted.
- (c) Turf areas that require regular mowing or maintenance, such as Kentucky Bluegrass:
  - i. Shall not exceed 33 percent of the landscaped area on a site; and <sup>677</sup>
  - ii. Shall not be used in median strips, parking strips, or other difficult areas to irrigate less than six feet in width.<sup>678</sup>

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<sup>673</sup> Carried forward 11-07-05.2.B(10), expanded to address xeriscaping, unless otherwise noted.

<sup>674</sup> New.

<sup>675</sup> New general standard requiring application xeriscaping principles.

<sup>676</sup> New standard to encourage water-efficient landscape design.

<sup>677</sup> New, replaces general statement to avoid large areas.

<sup>678</sup> Replaced "should" with "shall."

- (d) In all zoning districts, turf areas that are not accessible for public use, that do not provide recreational value, and that are used solely for decorative purposes, are prohibited. This prohibition includes but is not limited to the installation of turf in roadway medians, traffic circles and roundabouts, street frontage areas located between detached sidewalks and curbs, and within parking lot landscaped islands or swales.<sup>679</sup>

#### **(4) Plant Selection and Location**

- (a) Plants shall be placed based on adaptability to regional and micro climatic conditions, including shade, sun, and wind.<sup>680</sup>
- (b) Plants having similar water needs shall be grouped together in distinct hydrozones, and spaced to minimize watering needs while maximizing growth and spread of plants.<sup>681</sup>
- (c) Native and other low-water-use plants shall be installed to the maximum extent practicable.
- (d) Invasive, destructive, and exotic plants shall not be installed.<sup>682</sup>

#### **(5) Water Features<sup>683</sup>**

Water features such as fountains, waterfalls and ponds shall comply with the following standards:

- (a) The water used shall be recycled through the feature;
- (b) The feature shall be designed to prevent leakage;
- (c) Provisions for continued maintenance of the feature shall be identified in a narrative that accompanies the landscape plan; and
- (d) Evidence of the right to use the water for this purpose is required when the water will be obtained from an irrigation ditch or a well.

### **F. Placement and Installation of Trees<sup>684</sup>**

#### **(1) Location and Spacing<sup>685</sup>**

All trees planted pursuant to this Section 11-04-08 shall comply with the following standards. Class I, II, and III trees are identified in the Treasure Valley Tree Selection Guide.

- (a) For every 60 feet of perimeter landscape, one Class III tree shall be planted.
- (b) Class III trees shall be spaced no more than 60 feet apart.
- (c) Class II trees may be used and spaced 25 to 50 feet apart, depending on mature crown spread.
- (d) Class I trees shall be used where overhead power lines prohibit use of taller trees and may be used to mark entry points into a subdivision or to mark a special feature.

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<sup>679</sup> New.

<sup>680</sup> Replaced "should" with "shall."

<sup>681</sup> Replaced "should" with "shall."

<sup>682</sup> New.

<sup>683</sup> New standards to address water features in landscape design and ensure adequate water conservation techniques.

<sup>684</sup> Carried forward and consolidated current 11-07-05.2.B. (5), (7), (8), and (9).

<sup>685</sup> Paragraphs (a) – (e) carry forward 11-06-04.10.C.

- (e) Class I trees shall be spaced 15 to 30 feet apart, depending on mature crown spread. The location and selection of required trees shall be subject to approval by Community Forestry.
- (f) For design flexibility, trees may be grouped together or spaced evenly as desired. However, trees shall be spaced no closer than 80 percent of the average mature width of the trees, as demonstrated in the following examples:

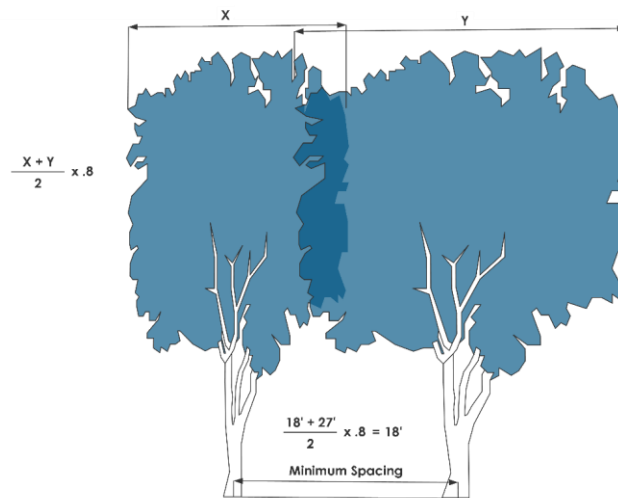


Figure 4-21. Tree Spacing Calculation Example

## (2) Curbing to Protect Trees

All planting areas that border driveways, parking lots and other vehicle use areas shall be protected by curbing, wheel stops or other protective devices located a minimum of 30 inches from all tree trunks.

## (3) Avoiding Interference with Utilities

The following standards apply to the planting of trees near existing utilities and to trenching for new utilities near existing trees:

### (a) Overhead Utilities

Only approved Class I trees in the Treasure Valley Tree Selection Guide may be planted under or within 10 lateral feet of any overhead utility wires.

### (b) Underground Utilities

- i. All trees shall be planted outside of any utility easement, unless written approval is obtained from the applicable agency.
- ii. All trees shall be planted outside of any easement that contains a City sewer main, unless written approval is obtained from the City Engineer.
- iii. If any utility easement precludes trees required by this Section, the width of the required buffer shall be increased to accommodate the required trees.

### (c) Trenching

New underground utilities shall be located outside of the dripline of existing trees if trenched, or be tunneled a minimum of three feet below existing grade within the

tree's dripline. No root two inches or larger shall be cut. This requirement is for placement of new utilities and does not affect the City's or the utility's ability to access existing utilities for repair, replacement, and maintenance.

**(4) Avoidance of Irrigation and/or Drainage Easements<sup>686</sup>**

- (a)** All trees shall be planted outside of any irrigation or drainage easement, unless written approval is obtained from the agency holding the easement or managing facilities in the easement.
- (b)** If any irrigation or drainage easement precludes installation of any trees required by this Section 11-04-08, the width of the required buffer shall be increased to accommodate the required trees.

**G. Berms**

- (1)** Berm slopes shall not exceed three to one (3:1, horizontal: vertical).
- (2)** Slopes shall not exceed four to one (4:1) on areas that require mowing.

**H. Clear Areas<sup>687</sup>**

- (1)** Trees, shrubs, and other landscaping shall not encroach into the minimum required clear height and width of primary or emergency vehicle access.
- (2)** Landscaping shall not block the clear vision triangle at street intersections as determined by the ACHD.
- (3)** The clear vision triangle shall be kept free of visual barriers including vegetation, except deciduous trees pruned at least eight feet in height above the sidewalk and 14 feet above the roadway, and walls, signs, vehicles, solid fences, or other sight obstructions exceeding three feet in height.<sup>688</sup>

**I. Irrigation<sup>689</sup>**

**(1) Irrigation Required**

All landscape areas requiring irrigation shall be served with an automatic underground irrigation system. Areas of landscaping that will not require supplemental watering after initial establishment are not required to have permanent irrigation.

**(2) Irrigation Water**

Use of non-potable irrigation water shall be required when reasonably available as defined by Idaho Code 67-6537.<sup>690</sup>

**J. Installation<sup>691</sup>**

**(1) Certificate of Completion**

Before issuance of the final Certificate of Occupancy, a licensed landscaping professional shall submit to the city certification that the landscaping has been installed in compliance with the approved plans.<sup>692</sup>

---

<sup>686</sup> New.

<sup>687</sup> Carried forward current 11-09-04.10.F. and applied generally to all landscaping.

<sup>688</sup> Carried forward lot layout standard from current 11-07-02.1.B.

<sup>689</sup> Carried forward current 11-07-05.2.C.

<sup>690</sup> New reference to Idaho Code.

<sup>691</sup> Current 11-07-052.I.

<sup>692</sup> Updated "author of the landscaping plan" to "licensed landscaping professional."

**(2) Installation Schedule**

All required landscaping, irrigation systems and site features shall be installed according to the approved landscape plan prior to issuance of a final Certificate of Occupancy.

**(3) Extension of Time for Installation**

Upon recommendation of the Planning Director, a temporary Certificate of Occupancy may be issued for a specified time period, not to exceed 180 days when:

- (a)** Due to weather or other circumstances, the landscaping or other required site amenities cannot be completed; and
- (b)** The applicant has provided surety to the City for the required improvements.

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**4. Street Frontage Landscaping<sup>693</sup>**

**A. Applicability**

Street frontage landscaping shall be required to be installed between the sidewalk and each street-facing facade of a primary multiple-family, mixed-use, and nonresidential building. Street frontage landscaping shall not be required in the MX-1, MX-2, MX-3, MX-5 and MX-5<sup>694</sup> zoning districts where a landscape buffer would prevent the placement of a proposed building at the allowed zero foot front or street side setbacks.

**B. Size and Location**

- (1)** Street frontage landscaping shall be installed along the full width of the required front setback.
- (2)** All required landscaping shall be located outside any public street right-of-way and shall be maintained by the property owner.
- (3)** The required planting area shall be measured from the property line (after dedication of any right-of-way) or from the back of the sidewalk, whichever is greater.<sup>695</sup>
- (4)** Irrigated landscaping, by agreement with the Ada County Highway District (ACHD), is required in unpaved areas within the undeveloped public street right-of-way.<sup>696</sup>

**C. Street Trees**

- (1)** All required street frontage landscaping shall be planted with trees and shrubs, or other vegetative groundcover, not including turf, with a minimum density of one tree per 40 lineal feet.<sup>697</sup>
- (2)** Class I trees shall not be planted in street frontage landscaping to the maximum extent practicable.<sup>698</sup>
- (3)** Coniferous and evergreen trees are not allowed to be installed in planting areas between sidewalks and streets only within planting areas 20 feet or greater in width.<sup>699</sup>
- (4)** Tree wells shall be a minimum of 36 square feet in size.

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<sup>693</sup> New term for "street buffers." Carried forward 11-07-05.2.D(1) unless otherwise noted.

<sup>694</sup> Currently C-5 and expanded to include all mixed-use districts where zero setbacks are allowed to encourage street-oriented design.

<sup>695</sup> Revised to match current practice and for internal consistency.

<sup>696</sup> Current 11-06-03.1.B(1)(g)i.

<sup>697</sup> Rounding rule was deleted; all measurement and rounding is addressed in a single Section in the Definitions chapter.

<sup>698</sup> Replaced "discouraged" with "maximum extent practicable" phrasing. Deleted clustering allowance because it is a general standard in the "Tree Location and Spacing" standards above.

<sup>699</sup> Revised from prohibition in areas less than 20 feet in width to match current practice.

- (5) Trees located in the public right-of-way shall comply with the Boise Tree Ordinance, Boise City Code 7-2.

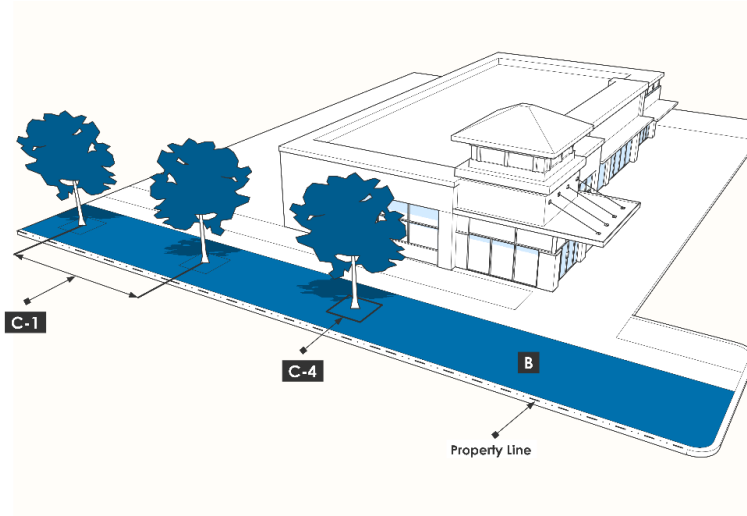


Figure 4-22. Street Frontage Landscaping

#### D. Parkway and Detached Sidewalks

Parkway widths shall be eight feet for Class II trees without root barriers, and 10 feet for Class I and III trees as measured from the inside of the sidewalk to the inside of the curb.<sup>700</sup>



Figure 4-23. Parkway Landscaping Standards

<sup>700</sup> Revised to delete six ft. width for Class II trees with acceptable root barriers.

## 5. Site Perimeter Buffers

### A. Arterial and Collector Street Buffering<sup>701</sup>

#### (1) Applicability<sup>702</sup>

Where lots containing Single-Family Detached or Attached, Duplex, Triplex, Fourplex, Co-Housing, Cottage Village Dwellings or Manufactured Home Communities are adjacent to collector or arterial streets, the following landscape buffer standards apply.

#### (2) Perimeter Landscape Buffer

- (a) The buffer shall be located outside of any planned future public right-of-way.
- (b) The minimum buffer width along arterial streets shall be 30 feet, and along collector streets shall be 20 feet.
- (c) The buffer area may be located within the lot provided that:
  - i. The depth of the lot is a minimum of 130 feet; and
  - ii. In cases where the side lot line runs along an arterial or collector, the width of the lot is a minimum of 80 feet.
- (d) Fences and walls shall not be placed in buffer areas.

#### (3) Frontage Road

- (a) Frontage roads, as permitted by the ACHD, and separated from a collector or arterial street by a 10 foot wide landscaped buffer, may be permitted.
- (b) The landscaped buffer shall be planted with trees and shrubs that at maturity will form a solid screen at least six feet high and a continuous tree canopy.

### B. Side and Rear Perimeter Buffers<sup>703</sup>

#### (1) Applicability

Side and rear landscape buffers shall be required for all boundaries of multiple-family, mixed-use, and nonresidential developments that are not adjacent to arterial or collector streets.<sup>704</sup>

#### (2) Size and Location

Landscape buffer widths shall be based on the required setbacks of the underlying zoning district. All required side and rear buffers shall be located within the property and shall be maintained by the property owner.<sup>705</sup>

#### (3) Parking Lot/Vehicular Use Area Buffers

- (a) If an interior side or rear lot line is adjacent to a parking lot or other vehicular use area including but not limited to vehicle sales areas, truck and bus parking areas and driveways the perimeter landscape strip shall be planted with one tree per 40 lineal feet. Species shall be selected from the Treasure Valley Tree Selection Guide. Clustering of trees is allowed, but clustered trees shall be spaced no closer than 80 percent of the average mature width of the trees.

<sup>701</sup> Carried forward current 11-07-05.2.H.

<sup>702</sup> Expanded to apply to duplex, triples, fourplex, co-housing, cottage village, and Manufactured Home Community homes.

<sup>703</sup> Carried forward current 11-07-05.2.D.(2) unless otherwise noted.

<sup>704</sup> Replaced "residential" with "multifamily residential" because subdivision landscaping requirements have been removed.

<sup>705</sup> Deleted reference to single-family residential subdivisions as the subdivision landscaping requirements have been removed.

- (b) In the event of a conflict between the standards in Subsection (a) above and the standards in Section 11-04-08.5.B(4), *Lot Buffers Between Different Land Uses* below, the standard requiring the more intense visual screen, as determined by the Planning Director, shall apply.<sup>706</sup>

**(4) Lot Buffers Between Different Land Uses<sup>707</sup>**

**(a) Applicability**

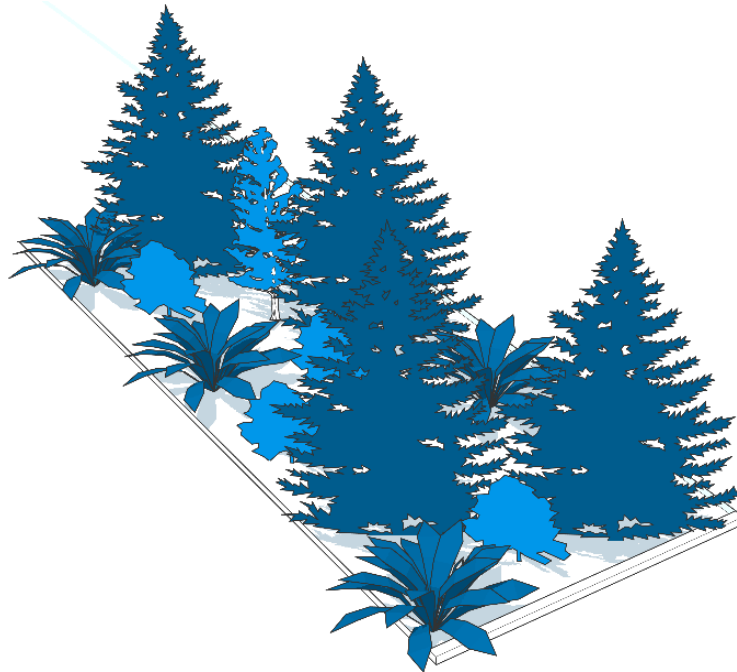
Lot buffers shall be required along the entire contiguous property lines between Residential zoning districts and mixed-use or nonresidential uses.<sup>708</sup>

**(b) Required Landscaping**

Required buffering shall be of one of the following four different types of landscaping, each of which has a defined purpose, but all of which shall be required to provide visual buffering to a height of eight feet above grade at maturity.

**i. Type A – Screened Separation**

Type A landscaping is intended to function as a full screen and visual barrier.



**Figure 4-24. Type A Landscaping**

**ii. Type B – Filtered Screen**

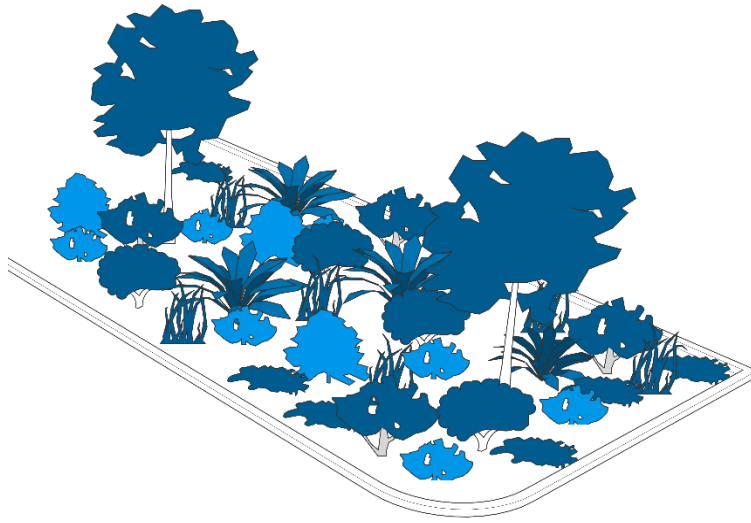
Type B landscaping is intended to function as a visual separator.

<sup>706</sup> New, for internal consistency.

<sup>707</sup> Replaces current 11-07-05.2.D(3) with the standards from the Citywide Design Standards and Guidelines and applies them to all zoning districts.

<sup>708</sup> Clarified to apply to Residential zoning districts, rather than residential uses, since current code does not apply these rules to residential uses in mixed-use development.

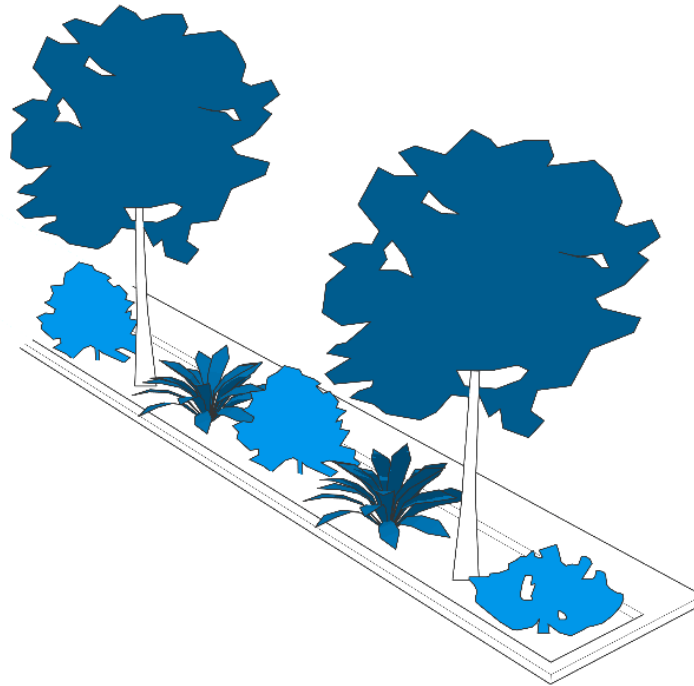




**Figure 4-25. Type B Landscaping**

**iii. Type C – Visual Enhancement**

Type C landscaping is intended to function as a partial visual separator that softens the appearance of parking areas and building elevations.



**Figure 4-26. Type C Landscaping**

**iv. Type D – Other**

Type D landscaping is all other landscaped areas that do not qualify as Type A, B, or C landscaping.

**TABLE 11-04.18: REQUIRED LANDSCAPE SEPARATORS AND BUFFERS**

|  | ADJACENT USES AND ZONING |                   |  |                   |   |  |   |
|--|--------------------------|-------------------|--|-------------------|---|--|---|
| PROPOSED NEW DEVELOPMENT                               | SINGLE-FAMILY DETACHED   |                   | EXISTING RESIDENTIAL IN NONRESIDENTIAL ZONING DISTRICT |                   | NONRESIDENTIAL USE OR VACANT LOT IN NONRESIDENTIAL ZONING DISTRICT            | STREET RIGHT-OF WAY [2]                                  | PUBLIC TRAIL OR OPEN SPACE                            |
|  | With Fence [1]           | Without Fence [1] | With Fence [1]   | Without Fence [1] |   |  |   |
| SINGLE-FAMILY ATTACHED & MULTIFAMILY (UP TO 3 STORIES) | B or C                   | A                 | B or C   | A                 | A, B, C, or D   | A, B, C, or D (storefront building frontages are exempt) | A, B, C, D  |
| OFFICE, COMMERCIAL, AND MIXED-USE (UP TO 3 STORIES)    | B or C                   | A                 | B or C   | A                 |   |  | A, B, C, D (storefront building frontages are exempt) |
| OFFICE, COMMERCIAL, AND MIXED-USE (> 3 STORIES)        | B or C                   | A                 | B or C   | A                 |   |  |   |
| INDUSTRIAL   | B or C                   | A                 | B or C   | A                 |   |  | A, B, C, D  |
| PARKING AREA   | A or B                   | N/A               | B or C   | A                 | C   | C  | A, B, C, D  |
| SERVICE, LOADING, OR WASTE MANAGEMENT AREA             | A                        | N/A               | A or B   |                   | A or B except where designed as a shared service areas with adjacent property | A  | A or B  |

**Notes:**

[1] Fence refers to a six to eight foot tall privacy fence placed at or near the property line and behind the landscaping.

[2] Buffer width shall follow the minimum setback of the underlying zoning district.

**(c) Standard Buffer Types**

- i. Required perimeter buffers shall comply with the buffer widths and planting requirements in Table 11-04.19 below.

**TABLE 11-04.19: STANDARD BUFFER TYPES**

| STANDARD                             | TYPE A  | TYPE B  | TYPE C  | TYPE D   |
|--------------------------------------|---|---|---|--|
| <b>PRIMARY PLANT MATERIALS [1]</b>   | A mix of primarily evergreen trees and shrubs   | A mix of evergreen and deciduous trees and shrubs   | Primarily deciduous trees   | Native and low maintenance trees and shrubs, flower and perennial beds, and limited lawn areas |
| <b>PLANT SPACING</b>                 | The selected plant materials and configuration shall be able to completely screen 60 percent of the unwanted views within five years of planting and fully screen the unwanted view within six years. | Trees provided at the rate of one tree per 40 linear feet of landscape strip  | Trees provided at the rate of one tree per 40 linear feet of landscape strip  | N/A  |
| <b>ADDITIONAL PLANTING MATERIALS</b> | Groundcover   | Groundcover   | Shrubs and groundcover  | N/A  |
| <b>ALTERNATIVE LANDSCAPING</b>       | N/A   | Alternative tree spacing will be considered provided the plant materials and configuration meet the intent of the standards within three years of planting. | Alternative tree spacing will be considered provided the plant materials and configuration meet the intent of the standards within three years of planting. | N/A  |

**Notes:**

[1] All buffer areas shall be comprised of, but not limited to, a mix of evergreen and deciduous trees, shrubs, lawn, or other vegetative groundcover. Fences, walls, and berms may also be incorporated into the buffer area.<sup>709</sup>

**(5) Additional Standards**

- (a) Where existing or proposed adjacent land uses cannot be adequately buffered with plant material(s), the City may require inclusion of a wall, fence, or other type of screen that mitigates noise and/or unsightly uses. If a wall or fence at least six feet tall is provided, the planting requirement may be reduced to at least one tree per 40 lineal feet, plus shrubs, lawn, or other vegetative groundcover, in lieu of the requirements of Subsections (2) and (3). Clustering of trees is allowed, but trees shall be spaced no closer than 80 percent of the average mature width of the trees.

<sup>709</sup> Current 11-07-05.2.D.(3)(c).

- (b) Chain-link fencing does not qualify as a screening material. If a chain link fence shall be installed for security or other reasons, the buffer must still be landscaped as described in Subsections (2), (3), and (4).
- (c) Landscaping and screens shall not eliminate required pedestrian access between Residential zoning districts and other districts or land uses.

## 6. Parking Lot Interior Landscaping<sup>710</sup>

### A. Applicability

Interior parking lot landscaping shall be required in any parking lot with 10 spaces or more, including vehicle sales lots, for any use other than an Industrial Use, as listed in Table 11-03.1: *Table of Allowed Uses*.<sup>711</sup>

### B. Planter Design and Size<sup>712</sup>

- (1) Landscaping shall be installed in planter islands or swales designed to allow infiltration and passive treatment of stormwater, as shown in Figure 4-27.<sup>713</sup>

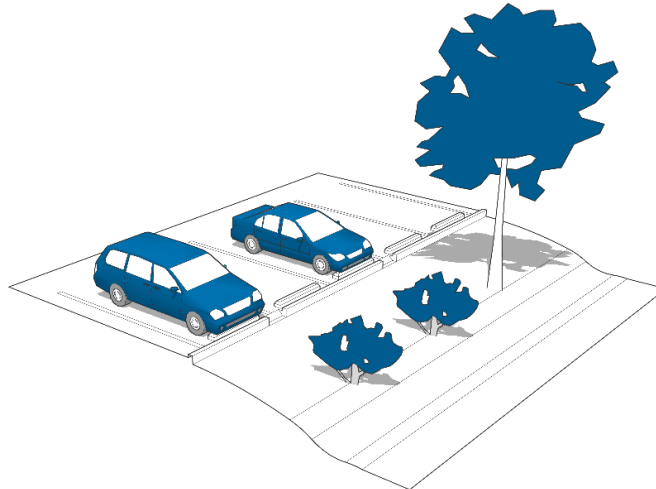


Figure 4-27. Landscaping Swale

- (2) Landscaping planter islands or swales shall be a minimum of eight feet in width for Class II trees and 10 feet in width for Class I and III trees, and shall be at least equal in length to the adjacent parking space. Dimensions are measured inside curbs.

### C. Landscaping Locations

- (1) No linear grouping of parking spaces shall exceed 10 in a row, without an internal planter island or swale.
- (2) Interior landscaping islands or swales shall be used to delineate and guide major traffic movement within the parking area.

<sup>710</sup> Carried forward 11-07-05.2.E unless otherwise noted.

<sup>711</sup> Threshold revised from 12 spaces.

<sup>712</sup> References to raised landscaped islands replaced by swales, which are increasingly required in order to treat rainwater runoff from parking areas and reduce the volumes of water in piped storm sewers.

<sup>713</sup> New.

- (3) Terminal planter islands or swales shall be provided at the ends of rows of parking to protect parked vehicles and confine moving traffic to aisles and driveways.
- (4) Interior landscape planter islands or swales shall be distributed as evenly as practicable to reduce the visual impact of long rows of parked cars.
- (5) Internal parking lot walkways shall include shade trees planted along at least one side of the walkway and spaced at a minimum of one tree per 30 linear feet.<sup>714</sup>

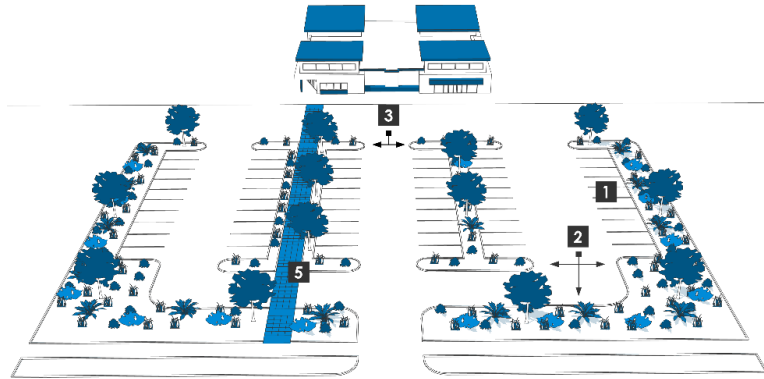


Figure 4-28. Internal Parking Lot Planting Standards

#### D. Trees Required

- (1) Each interior planter island or swale that serves a single row of parking spaces shall be landscaped in compliance with Type C landscaping as described in Section 11-04-08.5.B(4)(b)iii and at least one tree.<sup>715</sup>
- (2) Each interior planter island or swale that serves a double row of parking spaces shall have at least two trees and shall be covered with low shrubs or other vegetative groundcover.
- (3) Deciduous shade trees shall be pruned to a minimum height of eight feet above the adjacent parking areas. Evergreen trees are prohibited in interior planters.

<sup>714</sup> New from Section 3.8.3 of the Citywide Design Standards and Guidelines.

<sup>715</sup> Reference to Type C landscaping carried forward from the Citywide Design Standards and Guidelines.

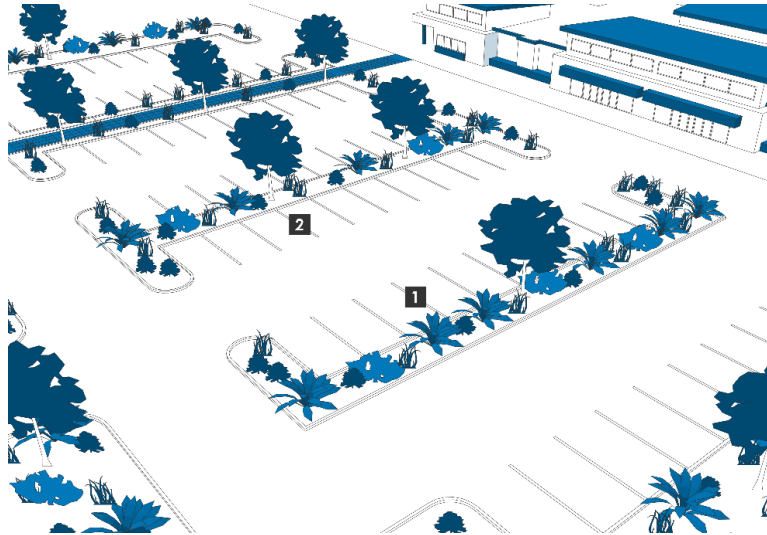


Figure 4-29. Parking Lot Interior Landscaping

#### E. Lights Prohibited

Light poles and fixtures shall be located outside of landscape planter islands or swales that contain required trees.

### 7. Building Foundation Planting<sup>716</sup>

All street-facing building elevations, except for those in the MX-5 zoning district and those located within 20 feet of the front lot line in the MX-1, MX-2, MX-3 and MX-4 zoning districts, shall have landscaping along any exposed foundation except those portions of the buildings that provide access for pedestrians or buildings to the building. Foundation landscaping shall comply with the following standards:

- A. The landscaped area shall be at least three feet wide;
- B. There shall be at least one three-gallon shrub for every three feet of linear foundation; and
- C. Ground cover plants shall fully cover the remainder of the landscaped area.

### 8. Tree Preservation<sup>717</sup>

All residential, mixed-use, and nonresidential development shall comply with the following standards.

#### A. Credit Towards Required Landscaping

Existing trees that are retained or relocated on site may count toward the required landscaping.

<sup>716</sup> New from Section 3.8.3 of Citywide Design Standards and Guidelines. Exclusions in the mixed-use zoning districts added to encourage more pedestrian-usable areas between building frontages and the street.

<sup>717</sup> Carried forward 11-04-05.2.F. unless otherwise noted. Current 11-07-05.2.F.(1) language related to landscape plan requirements relocated to the City's website.

**B. Mitigation Trees<sup>718</sup>**

- (1) Each healthy desirable tree with four inch caliper or greater that is removed shall be replaced with one or more trees with a combined caliper equal to two times the caliper of the tree that was removed.
- (2) Each required replacement tree shall be of two inch caliper or greater.
- (3) Required replacement trees shall be located either on site or off-site based on the recommendation of the City Forester.

**C. Protection During Construction**

- (1) Existing trees that are retained shall be protected from damage to bark, branches, and roots during construction. Protection fences around existing trees are required for the duration of construction.
- (2) Construction within the dripline of existing trees shall comply with the following standards:
  - (a) Impervious surfaces may be allowed at a distance from the trunk of a retained tree not less than the diameter of the tree trunk plus five feet.
  - (b) Grade changes within the dripline of existing trees shall be avoided to the maximum extent practicable, and are only permitted following a recommendation by the City Forester or an approved Arborist.
  - (c) New underground utilities to be placed within the dripline of existing trees shall be installed as per Subsection 11-04-08.3.F(3)(c), *Trenching*.

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**9. Stormwater Integration<sup>719</sup>**

**A. Purpose**

The purpose of this Section 11-04-08.9 is to encourage the incorporation of vegetated, well-designed stormwater filtration swales into landscape areas where topography and hydrologic features allow. Such integrated site designs improve water quality and provide a natural, effective form of flood and water pollution control. Landscape areas which incorporate stormwater swales shall generally be in addition to the landscaping required by this Section.<sup>720</sup>

**B. Design Standards**

New multiple-family, mixed-use, and nonresidential development shall comply with the following standards to the maximum extent practicable, after initial consultation with Planning and Development Services and Public Works Departments regarding the appropriateness of the site and initial designs. Additional information regarding stormwater system design is provided in the Boise Stormwater Design Manual and Stormwater Plant Materials Resource Guide, that are available from the Public Works Department.<sup>721</sup>

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<sup>718</sup> Standard significantly strengthened by requiring twice the caliper (rather than replacement of the same caliper).

<sup>719</sup> Carried forward current 11-07-05.2.G with minor revisions for clarity and internal consistency

<sup>720</sup> Deleted general requirement for stormwater swales to be in addition to the required landscaping because stormwater treatment swales can often be integrated well into required landscape areas.

<sup>721</sup> Vague encourage language replaced by maximum extent practicable.

**(1) Street Buffers**

Except for Industrial Uses, as listed in Table 11-03.1: *Table of Allowed Uses*, swales shall not be located in required landscape buffers along streets. Swales located along streets within required landscape buffers may be approved through the Alternative Compliance process in Section 11-04-08.11. Swales located within street buffers shall meet the following standards:

- (a) Swales shall not exceed twelve inches in storage depth;
- (b) Swales shall be separated from back of sidewalk by a minimum of two feet;
- (c) Street trees shall be provided as required by this Section;
- (d) Rapid sand infiltration windows shall be integrated for timely drainage of stormwater; and
- (e) No infiltration basins are allowed.

**(2) Perimeter Buffers**

Swales located within required buffers in side and rear yards shall meet the following standards:

- (a) Swales shall not exceed 18 inches in storage depth;
- (b) Trees shall be provided as required by this Section; and
- (c) Rapid sand infiltration windows shall be integrated for timely drainage of stormwater.

**(3) Materials and Design**

- (a) Gravel, rock, or cobble on the surface of swales shall not exceed 20 percent of the surface area of the bottom of the swale. Cobble may be incorporated into required landscape areas if designed as a dry creek bed or other design feature.
- (b) Stormwater swales shall be vegetated with appropriate plant materials. Plant materials shall be a species that are able to withstand the anticipated changes in soil wetness and moisture levels. Examples of appropriate plants materials include, but are not limited to:

**i. Trees**

River Birch (*Betula nigra*), American Hornbeam (*Carpinus caroliniana*), Green Ash (*Fraxinus pennsylvanica*), Sweetgum (*Liquidambar styraciflua*), Sycamore (*Platanus occidentalis*) and Mountain Alder (*Alnus tenuifolia*).

**ii. Shrubs**

Red Osier Dogwood (*Cornus sericea*), Serviceberry (*Amelanchier alnifolia*), Rhododendrons (*Rhododendron* sp.), American Cranberry Bush (*Viburnum trilobum*), Golden Currant (*Ribes aureum*) and Drummond Willow (*Salix drummondiana*).

**iii. Groundcovers**

Sedges (*Carex* sp.), Spike Rush (*Eleocharus acicularis*), Maiden Grass (*Miscanthus* sp.), and Fountain Grass (*Pennisetum* sp.).



- (c) Organic mulch shall not be used adjacent to the flow path. Plant material shall be installed adjacent to the flow path and infiltration area to aid in capturing sediment and reducing clogging.
- (d) Open water ponds and holding areas with a permanent water level are not permitted in required landscape or buffer areas, except along Interstate-84. However, ponds that are aesthetically designed with special grading and vegetative features may be approved as provided for through Alternative Compliance.
- (e) Slopes shall not exceed three to one (3:1, horizontal:vertical).

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## 10. Fences, Walls, and Screening

### A. Permitted Fencing and Screening Materials

- (1) In Historic Districts, a Certificate of Appropriateness is required for fences made with any material other than wood or wrought iron.
- (2) Electric fences are prohibited.
- (3) Barbed wire is permitted only in the I-1 and I-2 <sup>722</sup>zoning districts, and only as the top section of a security fence. Barbed wire shall be located at least 72 inches above grade.
- (4) Walls, lattices, and screens shall be considered to be fences.
- (5) Boxes, sheet metal scraps, old or decayed wood, broken masonry blocks, or other unsightly materials are prohibited.
- (6) Chain-link fencing shall not qualify as a screening material.

### B. Permitted Fences<sup>723</sup>

- (1) In Residential and Mixed-Use zoning districts, maximum fence heights are as follows:<sup>724</sup>
  - (a) Solid fences to a height of 36 inches or open-vision fences to height of 48 inches may be built within the front yard setback. Open-vision may include slatted fences where the gap width is at least 50 percent of the slat width.<sup>725</sup>
  - (b) Fences to a height of 72 inches may be built outside the front yard setback and within the setbacks along the rear and side property lines.
  - (c) One ornamental gate or entryway in a front or street side setback may be allowed to exceed the fence height limits, provided the gate or entryway does not exceed eight feet in height by six feet in width, and is not located within a clear vision triangle.

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<sup>722</sup> Changed from commercial and industrial districts.

<sup>723</sup> Deleted standard related to fences adjacent from micro-paths as micro-path requirements have been deleted. Reference to administrative variance was removed.

<sup>724</sup> Current standards applied only to residential and office districts.

<sup>725</sup> Second sentence is new.

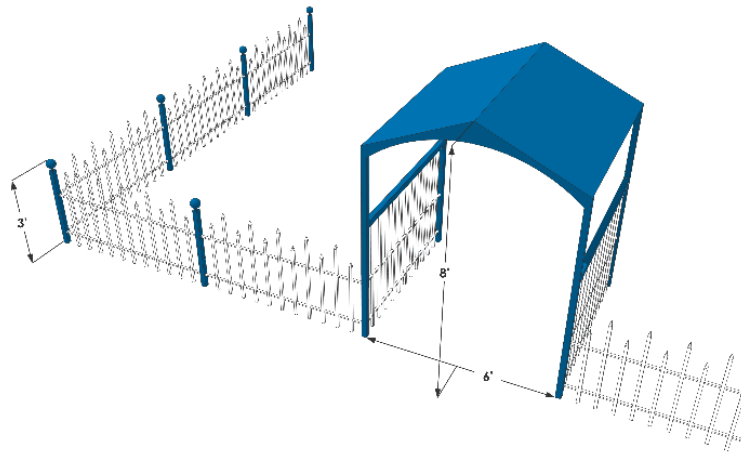


Figure 4-30. Ornamental Gate or Entryway Dimensions

**(2) Standards Applicable to All Fences**

- (a) The property owner installing the fence shall locate the fence entirely on their property or within an easement unless agreements are made with the adjoining property owners.
- (b) If a fence is to be erected upon and within public right-of-way, approval must also be obtained from the ACHD.
- (c) In Mixed-Use zoning districts<sup>726</sup>, concrete and masonry walls of any height and fences over seven feet tall shall be approved by the Building Department.
- (d) Fences, walls, or plantings on or within the clear vision triangle shall be limited to 36 inches in height.
- (e) Multiple fences, railings, and/or privacy screens within setbacks shall be separated by a minimum distance of five feet in order to be considered separate.

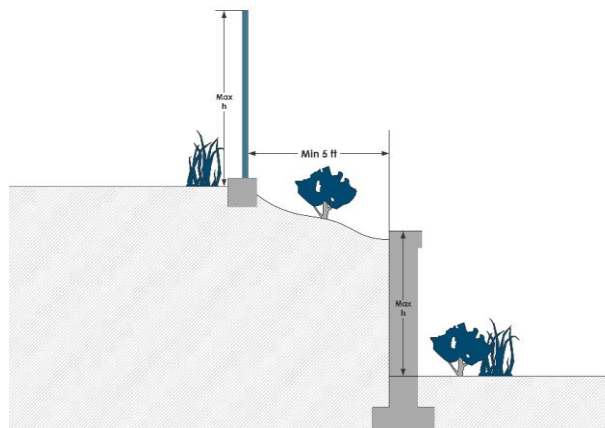


Figure 4-31. Fence Separation in Setbacks

<sup>726</sup> Currently applied to only commercial districts.

- (f) All fences shall be maintained in accordance with Section 11-04-012.1, *Landscaping, Buffering, and Screening Maintenance*.

### C. Retaining Walls

The following shall apply to retaining walls located within setbacks:

- (1) Individual retaining walls shall not exceed 36 inches in height when located within a front setback or clear vision triangle.
- (2) Individual retaining walls shall not exceed 72 inches in height when located within any other setback.
- (3) The height of retaining walls shall be measured from the finished grade adjacent to the exterior wall, and attached fences, retaining walls, railings and privacy screens shall also be included in the total height.

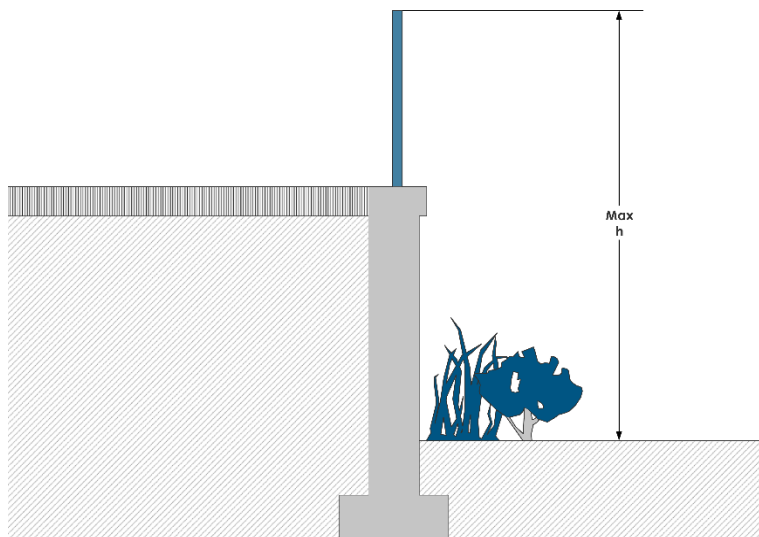


Figure 4-32. Height and Dimensions for Retaining Walls

- (4) Walls shall be separated by a minimum distance of five feet in order to be considered as separate walls.

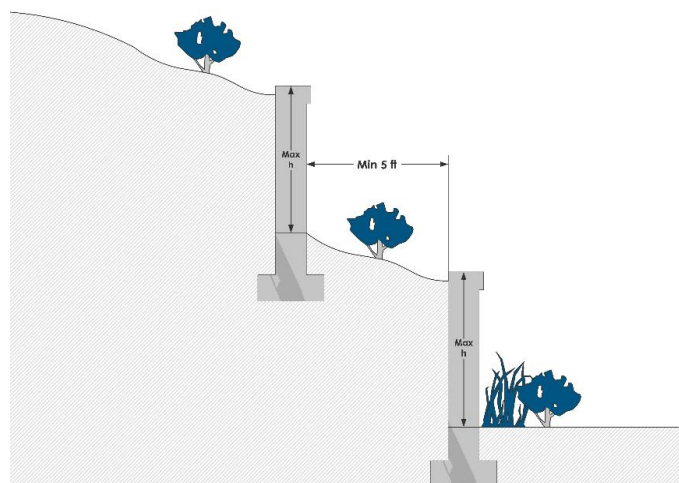


Figure 4-33. Distance for Separation

- (5) If the wall is located in the HS-O district, multiple walls with a combined height that exceeds the height allowed in the setback may be approved through the Category 2 Hillside Development Permit process if the design complies with the following conditions:
  - (a) The additional height is necessary and appropriate because of the size, configuration, topography, or other unique characteristics of the property;
  - (b) The Planning Director and City Engineer have jointly determined that the height, location, and grading for the walls are the minimum necessary for reasonable development of the property;
  - (c) The additional height will not have any substantial detrimental effect on adjacent or nearby properties;
  - (d) Terraces between the walls are of sufficient width and depth to accommodate landscaping or other techniques designed to reduce the visual impact. Conditions requiring such techniques shall be incorporated into the permit; and
  - (e) Clear vision triangles are free of obstructions that exceed 36 inches in height.

#### **D. Screening**

##### **(1) Applicability<sup>727</sup>**

This Section 11-04-08.10.D shall apply to all mixed-use and nonresidential development in all districts, except the I-2 zoning district.

##### **(2) Parking and Storage Areas<sup>728</sup>**

All parking and storage areas including vehicle sales areas, truck parking areas, bus parking areas, and service drives shall comply with the following standards:

- (a) A solid Type B screen at least five feet deep, with a height not less than eight feet shall be provided when a parking lot is adjacent to the side and/or rear yard of a residential land use.

##### **(3) Service Areas<sup>729</sup>**

- (a) Service areas visible from the street, pathway, public space, or parking area shall be enclosed and screened around their perimeter by a durable wall or fence at least six feet high.
- (b) Developments shall use materials and detailing consistent with primary structures on-site. Acceptable materials include brick, concrete block, or stone.
- (c) The sides and rear of the enclosure shall be screened with Type A, B, or C as described in Section 11-04-08.5.B(4)(b), at least five feet deep in locations visible from the street, dwelling units, customer parking areas, or pathways to soften the views of the screening element and add visual interest.
- (d) Collection points shall be located and configured so that the enclosure gate swing does not obstruct pedestrian or vehicle traffic, or does not require that a hauling truck project into any public right-of-way.

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<sup>727</sup> New.

<sup>728</sup> Carried forward current 11-07-05.3.B.5, with revisions to clarify required depth and height of buffer.

<sup>729</sup> New content from Section 3.7 of the Citywide Design Standards and Guidelines applied broadly.

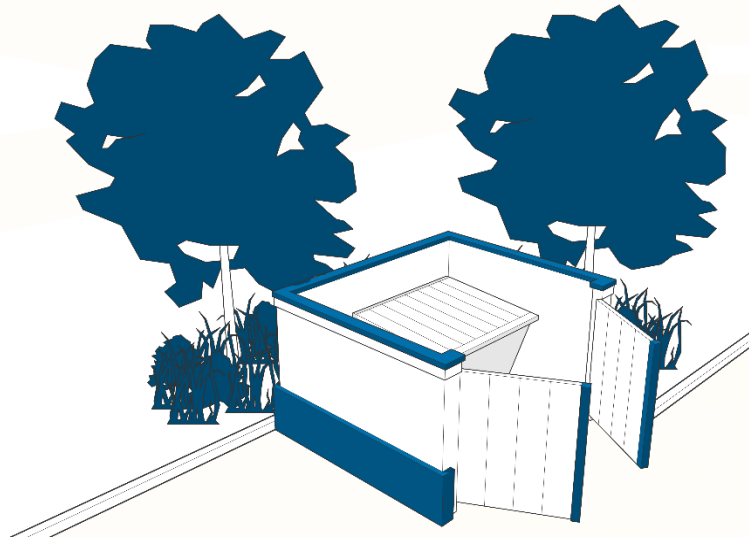


Figure 4-34. Service Area Enclosure and Landscaping Requirements

**(4) Mechanical and Utility Equipment<sup>730</sup>**

**(a) Roof-Mounted**

- i. Roof-mounted mechanical equipment shall be integrated into the building's overall design so as not to be visible from five feet above ground on any lot line, and from any adjacent public rights-of-way or open spaces to the maximum extent practicable.
- ii. Where integration to avoid visibility is not practicable, roof-mounted mechanical equipment shall be screened from view from five feet above ground on any lot line, and from any adjacent public rights-of-way or open spaces using parapet walls or an enclosure using one of the primary building facade colors to surround the equipment.

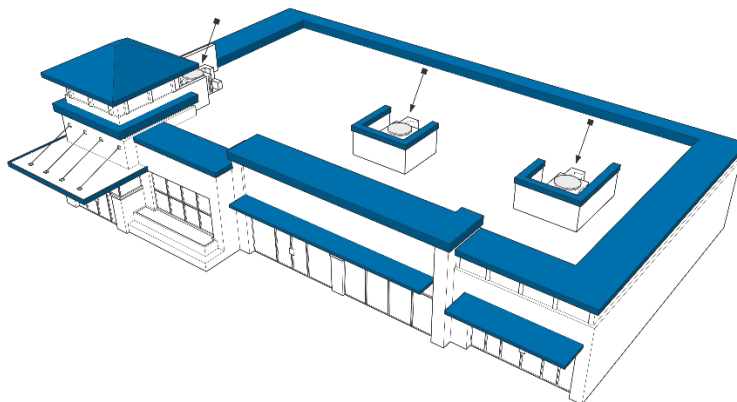


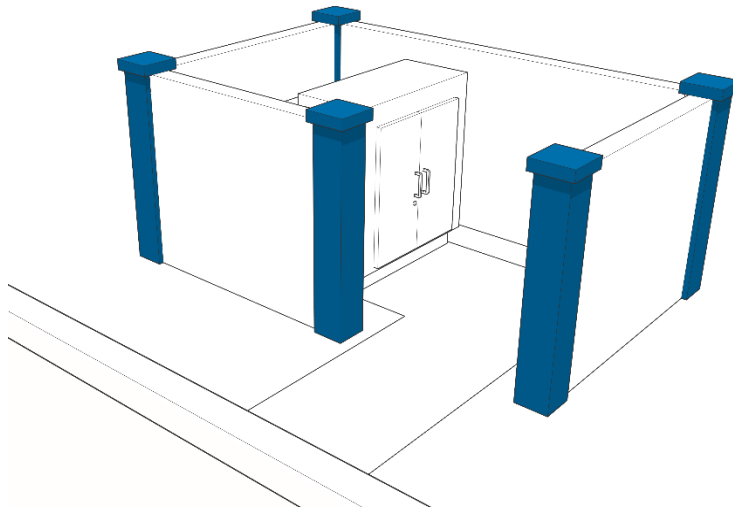
Figure 4-35. Roof-Mounted Screening

<sup>730</sup> New and enhanced screening standards for both rooftop and ground-mounted mechanical and utility equipment.

**(b) Ground-Mounted**

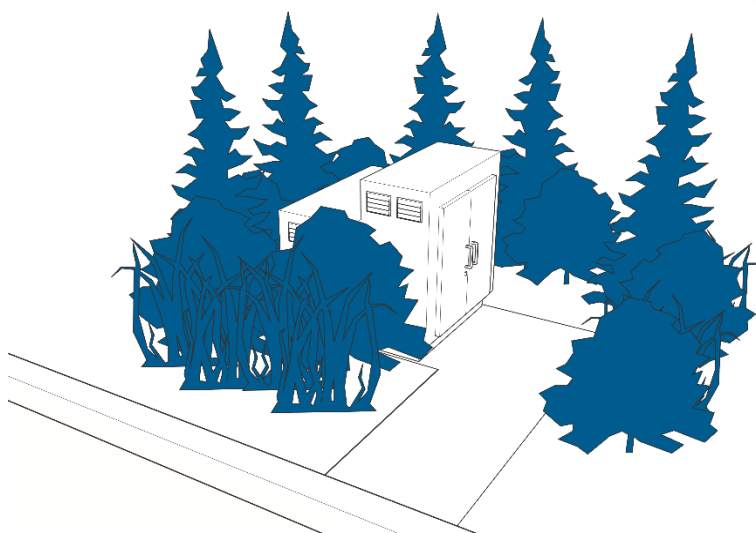
Ground-mounted mechanical equipment located within view of customer entrances and public rights-of-way or open spaces shall be integrated into the overall site design, the architectural design of the building, and screened from public view using one or a combination of the following:

- i. A decorative wall, fence or enclosure that is constructed of one of the primary materials and colors used on the adjacent facade of the building, and of a height that is not less than the height of the equipment to be screened; or



**Figure 4-36. Ground-Mounted Equipment Wall Enclosure**

- ii. Landscaping that is of sufficient height at maturity and of opacity to effectively soften and screen views of the equipment, and that is integrated into the overall landscape plan.



**Figure 4-37. Ground Mounted Equipment Landscaping**

## 11. Alternative Compliance

### A. Purpose

The purpose of this Section 11-04-08.11 is to provide for alternative means to meet the intended purposes of the landscaping requirements in this Section 11-04-08 when explicit compliance is not practicable or the alternative means are superior to what is required.

### B. Process

#### (1) General<sup>731</sup>

The applicant shall request Alternative Compliance in conjunction with the submittal of a Zoning Certificate, Conditional Use Permit, or Design Review application, or upon the determination that the development does not comply with the specific provisions of this Section 11-04-08, at the applicant's option. The request will be considered by the same approval body as the base application. The request shall specify:

- (a) The specific requirements that are proposed to be modified;
- (b) The reasons for the modification; and
- (c) A demonstration of how the alternative means for compliance meets the requirements' intended purpose.

#### (2) Stormwater Swales

Stormwater swales within front setbacks can be approved administratively provided that the landscape plans approved by the applicable approval body are not changed substantially and comply with Section 11-04-08.9. A landscape plan with swale construction details that incorporates the landscape design shall be submitted for the staff level review.

### C. Standard

The proposed alternative means for compliance with the specific requirements shall demonstrate that the alternative provides an equal or superior means of meeting the intent and purpose of the regulation.

### D. Required Findings

An application for Alternative Compliance may be approved if the Planning Director determines that:

- (1) Strict adherence or application of the requirements is not practicable because one of the following conditions exist:
  - (a) Topography, soil, vegetation, or other site conditions are such that full compliance is impossible or impractical;
  - (b) The site involves space limitations or an unusually shaped lot;
  - (c) Safety considerations;
  - (d) Other regulatory agencies or departments having jurisdiction are requiring design standards that conflict with the requirements of this Section;

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<sup>731</sup> Expanded to allow the use of this tool during Zoning Certificate review, and to clarify that the applicant may determine at what point to request approval of alternative compliance.



- (e) The proposed design includes innovative design features based on "new urbanism," "neotraditional design," or other site designs that promote walkable and mixed use neighborhoods; or
- (f) Environmental quality benefits.
- (2) The Alternative Compliance provides an equal or superior means for meeting the requirements; and
- (3) The alternative means will not be detrimental to the public welfare or adversely affect the uses and character of surrounding properties.

## 12. Compliance with Design Standards

- A. In addition to the standards required by this Section 11-04-08, all multiple-family, mixed-use, and nonresidential development shall comply with the standards and other mandatory content in the Citywide or Downtown Design Standards and Guidelines, as applicable in the area where the property is located.
- B. In the event of a conflict between the standards in this Section 11-04-08 and applicable standards in the Citywide or Downtown Design Standards and Guidelines, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

### 11-04-09. Building Design<sup>732</sup>

#### Commentary:

This Section introduces general building design standards, some of which have been taken from the mandatory (not advisory) content in the Citywide or Downtown Design Standards and Guidelines and applied broadly to certain types of development (regardless of whether those properties are now designated as subject to the Design Standards). It is intended to provide the basic design standards required for new development and redevelopment that should not be subject to negotiations, and then to be supplemented by the advisory and negotiable Citywide or Downtown Design Standards and Guidelines, which can be negotiated during the Design Review process.

Codifying the "shalls" building design for multiple-family, mixed-use, and nonresidential development helps implement several Blueprint Boise recommendations to enhance high-quality pedestrian and transit-oriented development while adding predictability to the Design Review process. Leaving the "should" of building and site design in the Citywide and Downtown Design Standards and Guidelines preserves the current ability of the Design Review Commission to improve and optimize development design. If these regulations are adopted, overlapping or conflicting regulations in the Citywide and Downtown Design Standards and Guidelines, should be removed from those documents.

#### 1. Purpose<sup>733</sup>

The purpose of this Section 11-04-09 is to:

- A. Provide standards that will help to reinforce existing and desired development patterns and building features intended to implement the Comprehensive Plan;

<sup>732</sup> New Section to clarify the applicability of both the Citywide and Downtown Design districts.

<sup>733</sup> New. Language from Citywide and Downtown Design Standards and Guidelines. Reference to wildlife added.



- B. Design sites and orient buildings with an emphasis on character and creating a comfortable walking environment;
- C. Design buildings that respond to the unique context of the site;
- D. Reduce impacts to wildlife;
- E. Promote original and distinctive building design; and
- F. Incorporate sustainable development practices.

## 2. Applicability<sup>734</sup>

The provisions of this Section 11-04-09 shall apply to all multiple-family, mixed-use, and nonresidential development listed in Section 11-04-02, *Applicability*, and as otherwise required in the Citywide and Downtown Design Standards and Guidelines.

## 3. Compliance with Additional Form and Design Standards Required<sup>735</sup>

- A. In addition to complying with the standards in this Section 11-04-09:
  - (1) All development shall comply with all other standards related to building and site form and design applicable to the zoning district in which the property is located, as listed in Sections 11-02-02 through 11-02-06; and
  - (2) All new multiple-family, mixed-use, and nonresidential development, including but not limited to Parking Garages shall comply with all other standards and mandatory content related to building design in the Citywide and Downtown Design Standards and Guidelines, as applicable in the area where the property is located.
  - (3) Residential uses with four or fewer units in a single structure are exempt from these standards.<sup>736</sup>
- B. In the event of a conflict between two or more standards in this Section 11-04-09, or between the standards in this Section 11-04-09 and applicable standards in the Citywide or Downtown Design Standards and Guidelines, the provision requiring the higher level of visual building quality and interest, as determined by the Planning Director, shall apply.

## 4. General Site and Building Design Form Standards<sup>737</sup>

### A. Buildings and Parking Placement<sup>738</sup>

In all zoning districts except the R-1A, R-1B, R-1C, O-1, O-2, and O-3 P zoning districts, each primary building and each parking garage shall be located so that:

- (1) No surface parking lot is located between the primary building or parking garage and any front or side lot line abutting a public or private street; and
- (2) No surface parking lot is located closer to any abutting public or private street than the facade of the primary building or parking garage fronting that street.

<sup>734</sup> New. This Subsection describes the general applicability of this Section – see commentary for more information.

<sup>735</sup> Section reorganized in Consolidated Draft.

<sup>736</sup> Although this is inconsistent with the definition of multifamily in the Citywide and Downtown Design Standards and Guidelines, in order to support the City's housing goals and for internal consistency, it is important that three and four-unit residential uses (triplexes, fourplexes, and single-family attached (no more than four units) are subject to the same standards as single-family detached and duplex dwellings.

<sup>737</sup> All standards are carried forward from the Citywide and Downtown Design Standards and Guidelines and broadly applied to nonresidential and multifamily development, except as noted.

<sup>738</sup> New, based on principles in the Citywide and Downtown Design Guidelines. Exemption expanded to all open space district.

## B. Building Entrances

- (1) At least one pedestrian entry to each primary building shall be visible and directly accessible from at least one of the adjacent public or private streets, unless Subsection (3) below requires additional pedestrian entries or Subsection (4) below requires pedestrian entries in different locations.<sup>739</sup>
- (2) At least one pedestrian entry to each primary building shall be visible and directly accessible from any pathway designated on the Boise Pathways Plan that is located on the same lot or on an abutting lot.<sup>740</sup>
- (3) On each primary building frontage exceeding 100 feet in length that has a nonresidential ground floor use, at least one pedestrian entry to the building shall be visible and directly accessible from the street within each 50 horizontal feet of building length.<sup>741</sup>

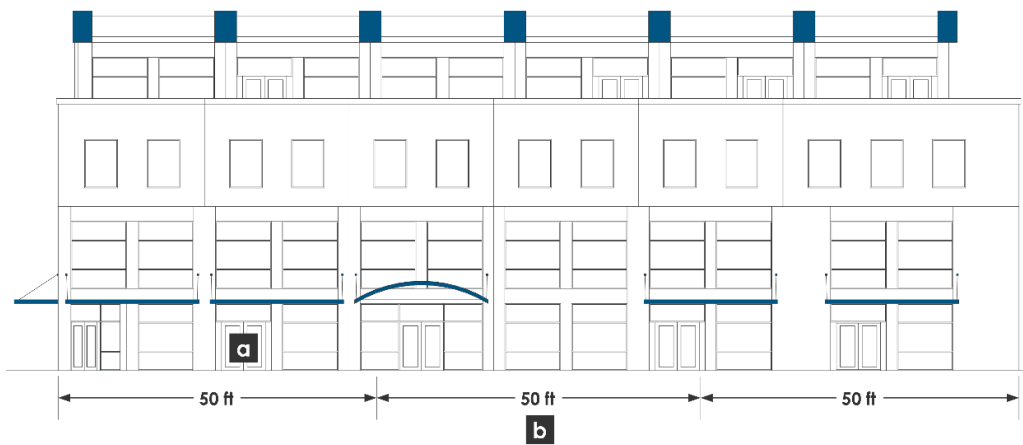


Figure 4-38. Building Entrance Requirements

- (4) In districts with an established pattern of building entrances facing the street, new buildings shall be designed with entrances complying with the established pattern to the maximum extent practicable.<sup>742</sup>
- (5) Regardless of whether the entry is required by Subsections (1) through (3) above, each outward opening pedestrian entry facing a public or private street shall be designed so that it does not encroach on or interfere with pedestrian passage along any designated sidewalk.<sup>743</sup>
- (6) Regardless of whether the entry is required by Subsections (1) through (3) above, each pedestrian entry that provides access to a primary building or parking lot, and that faces a public or private street or a surface parking lot, shall incorporate a covered area providing weather protection to those entering or leaving the building. Each covered weather protection feature shall extend at least five horizontal feet outward from the facade of the building, or be inset a minimum of five feet into the facade of the building.

<sup>739</sup> Carried forward from the Citywide Design Guidelines and applied broadly.

<sup>740</sup> New, based on principles in the Citywide and Downtown Design Guidelines.

<sup>741</sup> New.

<sup>742</sup> Carried forward from the Citywide Design Guidelines and applied broadly.

<sup>743</sup> New, based on principles in the Citywide and Downtown Design Guidelines.

Weather protection may be accomplished by canopies, arcades, awnings, or other building features.<sup>744</sup>

### C. Façade Transparency<sup>745</sup>

- (1) If the ground floor of the building is located within 10 feet of the sidewalk, at least 40 percent of the ground floor, street-facing facade between four and eight feet above the sidewalk, shall be transparent.



Figure 4-39. Street Frontage Transparency

- (2) If the ground floor of the building is located between 10 and 20 feet from the sidewalk, at least 25 percent of the ground floor, street-facing facade between four and eight feet above the sidewalk shall be transparent.
- (3) When the ground floor of the building is occupied by residential uses, at least 15 percent of the street-facing facade (all vertical surfaces generally facing the street) shall be transparent.
- (4) Window glazing on the bottom two floors on street-facing facades of each primary building that does not provide visibility into residential dwelling units shall achieve a visible transmittance ratio (VT) of at least 0.60.<sup>746</sup>
- (5) At least 90 percent of the glazing of any building facade shall include features that enable birds to perceive the glass as a solid object using at least one of the following treatments:<sup>747</sup>
  - (a) Non-reflective glass or window film that is opaque or translucent;
  - (b) External screens installed permanently over glass windows;
  - (c) Paned glass with mullions on the exterior of the glass;
  - (d) Glass covered with patterns (e.g., dots, stripes, images, abstract patterns, lettering), etched, fritted, stenciled, silkscreened, applied to the glass on films or decals, or another method of permanently incorporating the patterns into or onto the glass. Elements of the patterns shall be at least one-eighth (1/8) inch tall and separated no more than two inches vertically, at least one-quarter (1/4) inch wide and separated by no more than four inches horizontally; or

<sup>744</sup> New, based on principles in the Citywide and Downtown Design Guidelines.

<sup>745</sup> Carried forward the facade transparency standards for "other," non-storefront block frontages in the Citywide Design Guidelines.

<sup>746</sup> New standard to avoid reflective glass on key pedestrian facades.

<sup>747</sup> New standards to reduce bird strike incidents.

- (e) Other glazing treatments providing an equivalent level of bird safety and approved by the Planning Director.

#### D. Building Façade Articulation<sup>748</sup>

Each street-facing facade of a primary building shall be designed to avoid undifferentiated wall planes by dividing street-facing facades into a series of smaller horizontal and vertical components that comply with the following standards.

- (1) Each street-facing facade shall incorporate at least three of the following elements within each 50 horizontal feet of building facade:
  - (a) Use of vertical piers or columns;
  - (b) Change in building material or siding style;
  - (c) Providing vertical building modulation of at least 12 inches in depth;
  - (d) Projections, recessions, or reveals such as, but not limited to, columns, pilasters, cornices, and bays, and having a change of wall plane that is a minimum of six inches in depth; and/or
  - (e) A change in building material, siding style, or color.
- (2) In the Industrial zoning districts, each street-facing facade shall follow what is required in the Citywide Design Review Standards and Guidelines.

### 5. Use-Specific Building Form Standards<sup>749</sup>

#### A. Applicability

- (1) All uses listed in Table 11-03.1: *Table of Allowed Uses*, as a Special Allowed Use shall comply with the following Use-Specific Form Standards (the Allowed Forms), as applicable to the zoning district in which the property is located. In the event of a conflict between these standards and applicable standards in Chapter 11-02, *Zoning Districts* or in Subsections 3 or 4 above, the standards in this Subsection 5 shall apply.
- (2) If an application for a Special Allowed Use does not comply with one or more of the Allowed Form standards in this Section 11-04-09.5, an Alternative Form for the building or development containing the use may be approved by the Planning Commission pursuant to Section 11-05-05.3.L, *Special Allowed Use With Alternative Form*.

#### B. Uses Located in the MX-1 District

- (1) The use shall be located in a building at least two stories in height; and
- (2) The use shall be located in:
  - (a) A building or development containing at least two different uses listed in Table 11-03.1: *Table of Allowed Uses*; or
  - (b) An existing primary building.

#### C. Uses Located in the MX-3 District

- (1) The use shall be located in a building at least four stories in height; and
- (2) The use shall not provide a greater number of vehicle parking spaces than the minimum required by Section 11-04-07.5 *Minimum and Maximum Off-Street Parking Standards*, as adjusted pursuant to Section 11-04-07.6, *Parking Adjustments*.

<sup>748</sup> New, based on principles in the Citywide and Downtown Design Guidelines.

<sup>749</sup> New in Consolidated Draft.

- (3) As an alternative to Subsection (2) above, a Multifamily Dwelling may meet the requirements of Section 11-04-03.7.D(3) regarding affordable housing and sustainable development and earn the related incentives.

**D. Uses Located in the MX-4 District**

- (1) The use shall be located in a building at least four stories in height;
- (2) The use shall be located in a building or development that does not include a surface Parking Lot;
- (3) The use shall be located in a building or development that does not include a Parking Garage with a greater number of vehicle parking spaces than the minimum required by Section 11-04-07.5 *Minimum and Maximum Off-Street Parking Standards*, as adjusted pursuant to Section 11-04-07.6 *Parking Adjustments*; and
- (4) The use shall be located in a building where at least 80 percent of the ground floor street frontage is occupied by uses that are in active use by occupants or users of the building or development, or by the general public. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that not accessible from the street frontage.
- (5) As an alternative to Subsections (2), (3), and (4) above a Multifamily Dwelling may meet the requirements of Section 11-04-03.7.D(4) regarding affordable housing and sustainable development and earn the related incentives.

**E. Uses Located in the MX-5 District**

- (1) The use shall be located in a building at least four stories in height;
- (2) The use shall be located in a building or development that does not include a surface Parking Lot;
- (3) The use shall be located in a building where at least 80 percent of the ground floor street frontage is occupied by uses that are in active use by occupants or users of the building or development, or by the general public. This requirement is not met by ground floor parking areas, storage areas, utility facilities, or stairwells that not accessible from the street frontage.
- (4) As an alternative to Subsection (2) and (3) above, the use may meet the requirements of Section 11-04-03.7.D(4) regarding affordable housing and sustainable development.<sup>750</sup>

**11-04-010. Exterior Lighting<sup>751</sup>**

**Commentary:**

The current Boise Code has minimal exterior lighting standards, most of which apply to only specific the Historic Street Light Districts. This draft proposes some relatively simple standards to apply more broadly throughout the City, but they have more objective standards and apply more broadly than what the City is administering today. Comprehensive lighting standards require additional up-front submittal requirements to demonstrate compliance.

<sup>750</sup>

<sup>751</sup> New Section incorporating current 11-07-07 Historic Street Light Districts. All content is new unless otherwise noted.

---

**1. Purpose<sup>752</sup>**

The purpose of this Section 11-04-010 is to provide for exterior lighting to enhance safety, minimize light trespass from developed areas, reduce sky-glow, improve nighttime visibility through glare reduction, encourage lighting techniques and systems that conserve energy, reduce the adverse effects light can have to wildlife behavior and reproduction, and reduce development impact on nighttime environments.

---

**2. Applicability<sup>753</sup>**

- A.** All outdoor lighting in all zoning districts shall comply with the standards in this Section 11-04-010 unless exempted by Subsection B below or by another provision of this Code.
- B.** The following are exempt from this Section 11-04-010:
  - (1) Luminaires with lamps of 100 watts or less in Residential zoning districts;
  - (2) Emergency lighting used by police, fire fighting, or medical personnel, or at their direction;
  - (3) Traffic control devices and luminaires on these devices installed by the City or other governmental entity;
  - (4) Navigational lighting systems at airports and other lighting necessary for aircraft safety;
  - (5) Holiday lighting and seasonal decorations using typical unshielded low-intensity incandescent lamps; and
  - (6) Lighting for temporary festival, carnivals, or other amusements lasting less than 14 consecutive days, provided the lighting is turned off within 30 minutes after the last event of each day.

---

**3. Prohibited Lighting**

The following types of exterior lighting are prohibited:

- A.** Any lighting that could interfere with the safe movement of motor vehicles, bicycles, or pedestrians on public or private streets;
- B.** Searchlights and rotating beacons;
- C.** Laser, strobe, and or flashing light sources or any similar high intensity light for outdoor advertising or entertainment;
- D.** Mercury vapor and low-pressure sodium lighting; and
- E.** Tower lighting, unless required by the Federal Aviation Administration (FAA).

---

**4. General Standards**

All exterior lighting for all uses, other than the I-2 zoning district, shall comply with the following standards.

**A. Lighting Types and Efficiency**

- (1) Light sources shall be color-correct types such as Halogen, LED, or metal halide.
- (2) All lighting shall have a nominal correlated color temperature (CCT) of no greater than 3,500 degrees Kelvin.

---

<sup>752</sup> Includes language from Blueprint Boise, Downtown and Citywide Design Standards.

<sup>753</sup> Includes a broad list of typical exemptions in modern zoning codes.

- (3) All exterior light fixtures shall generate at least 80 lumens per watt of energy consumed, as shown on the manufacturers' specifications for the fixture.

#### B. Shielding

- (1) All lighting fixtures, except motion detector-activated lighting, shall be fully shielded so that the lighting element is not visible to an observer at any property line.
- (2) Unless otherwise specified, all lighting fixtures shall be full cutoff type as installed.



Figure 4-40. Examples of Full-Cutoff Light Fixtures

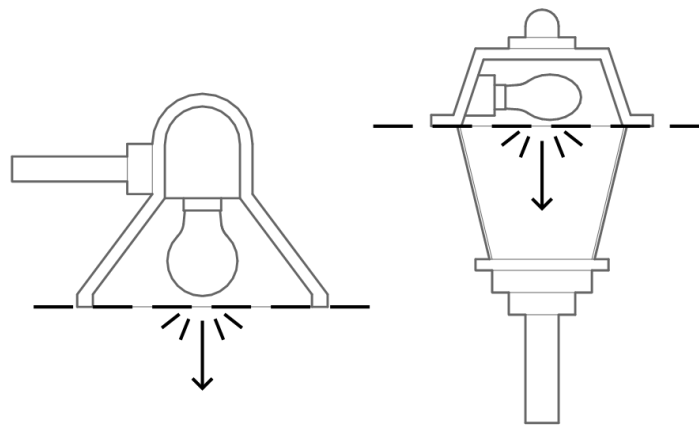


Figure 4-41. Example of Required Light Cutoff

- (3) A lighting fixture may beam light upward only if all upward light is reflected back down by a canopy, roof, or other such structure.

#### C. Lighting Trespass

All lighting shall be designed so that the lighting level at each property line that does not front on a public or private street shall not exceed 1.0 footcandle.

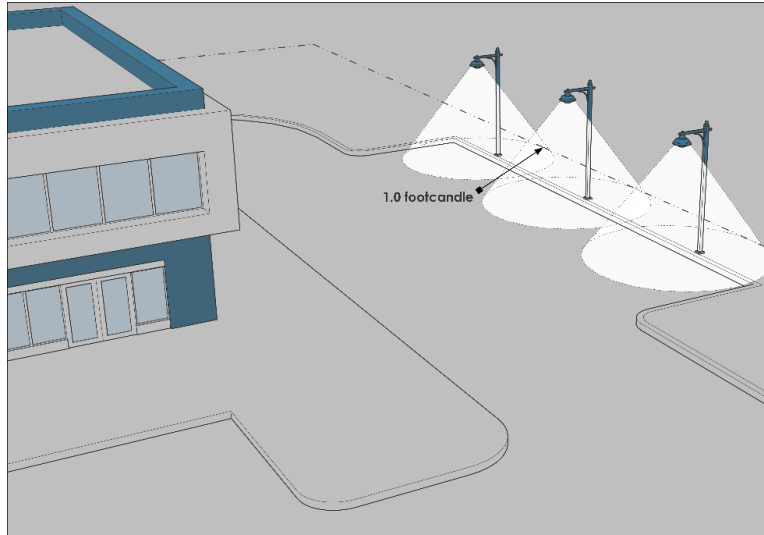


Figure 4-42. Light Trespass

**D. Reduced Lighting During Evening Hours**

All outdoor light fixtures within Residential, Mixed-Use, Industrial, and Open Land and Institutional districts shall remain off between 11:00 p.m. and sunrise except for security purposes or to illuminate walkways, driveways, equipment yards, and parking lots.

**E. Maintenance**

All outdoor light fixtures shall be maintained in accordance with Section 11-04-012.2, *Exterior Lighting*.

**F. Parking Lots or Areas**

- (1) Average luminance values in surface parking areas shall be a maximum of four footcandles.
- (2) Parking lot poles shall not exceed 20 feet in height.
- (3) Pedestrian walkways and bicycle paths in parking areas shall be lit with pedestrian-scale lighting as described in Subsection H, below.

**G. Canopy Lighting**

Light fixtures installed in canopies, pavilions, drive-through bays, or similar structures shall be flush-mounted or recessed above the lower edge of the canopy and shall be equipped with flat lenses that do not project below the canopy ceiling. The canopy fascia shall not be internally illuminated.



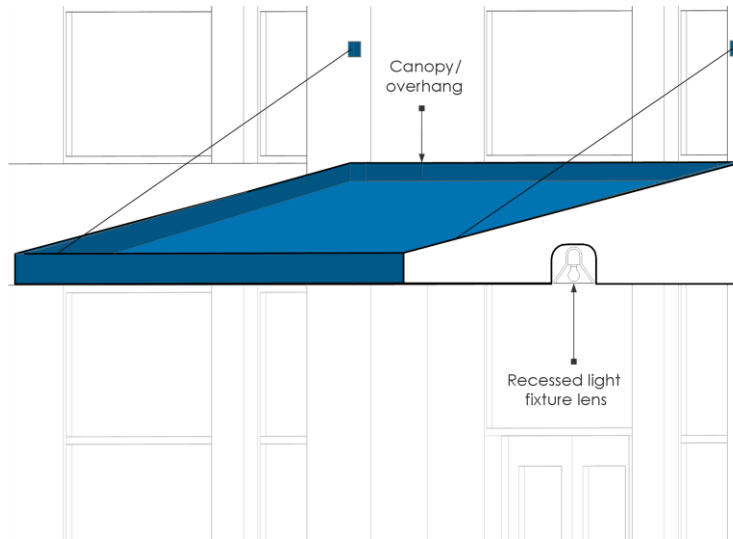


Figure 4-43. Example of Canopy Lighting

#### H. Pedestrian-Scaled Lighting

All on-site pedestrian walkways shall be lit with bollard lamps with shatterproof lamp coverings that direct light downwards, mounted no higher than four feet above grade.

#### I. Lighting Within Landscape Planters

Lighting fixtures and poles shall not be located in landscaped planters or in any location where that will in the future interfere with the natural growth of required trees.<sup>754</sup>

### 5. Historic Street Lights<sup>755</sup>

#### A. Applicability<sup>756</sup>

The applicant shall install historic street lights in the following areas:

- (1) Historic Districts;
- (2) The Downtown Planning Area;
- (3) Any other areas with historic character; and
- (4) The shaded areas in the Downtown Historic Street Light Area shown in Figure 4-44;

<sup>754</sup> From the Citywide Design Standards, applied generally.

<sup>755</sup> Currently 11-07-07, revised as objective standards rather than an overlay district.

<sup>756</sup> General references to possible applicability to Gateway Streets, Conservation Districts, and other areas of historic character were deleted as vague, and since it seems that most areas of applicability have been mapped.



Figure 4-44. Map of Downtown Historic Street Light Area<sup>757</sup>

- (5) The shaded street frontages on the Harrison Boulevard and Hyde Park Historic Street Light Areas shown in Figure 4-45.

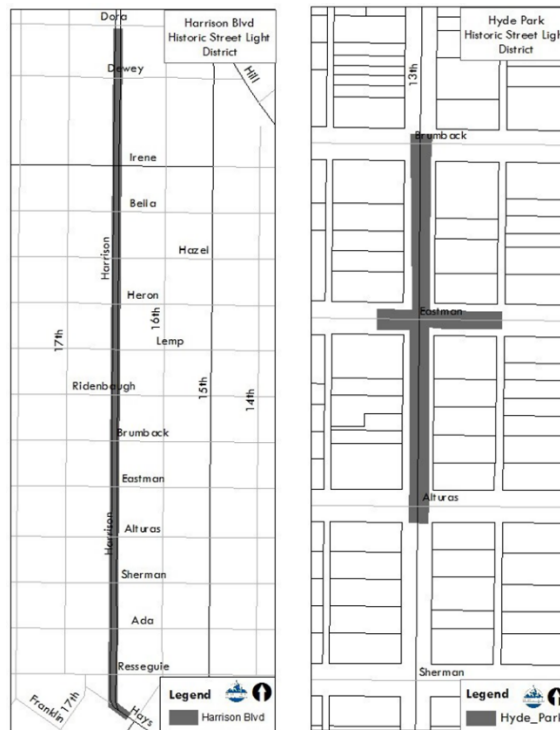


Figure 4-45. Maps of Harrison Boulevard and Hyde Park Historic Street Light Areas

<sup>757</sup> Map was relabeled from "all Historic Street Light Districts" because it covers a different area than the following maps.

- [illegible]

(7) The shaded street frontages on the Warm Springs Historic Street Light Area shown on Figure 4-47.



Figure 4-47. Map of Warm Springs Historic Street Light Area

## B. General Standards<sup>758</sup>

Where required, historic street lights shall comply with the lighting and spacing requirements in this Subsection B, unless an exception to these standards in Subsection C applies.

### (1) General

- (a) These standards establish general location requirements only; exact locations will be determined in consultation with the Director of Public Works.
- (b) Historic street lights shall be located to match the street light on the opposite side of the street.
- (c) When replacement is required, historic street lights shall be replaced in the same location.

### (2) By Sub-District

#### (a) Downtown District

As required by the latest approved Capitol City Development Corporation design standards, except that the Grove Plaza, 30<sup>th</sup> Street Area, and Broad Street shall instead comply with the standards in Subsection E below.

#### (b) Vista Avenue District

Three lights per block evenly spaced along street.

#### (c) Harrison Boulevard District

Lights shall be located at either end and in the center island.

#### (d) Hyde Park District

65 to 75 feet spacing, both sides of the street.

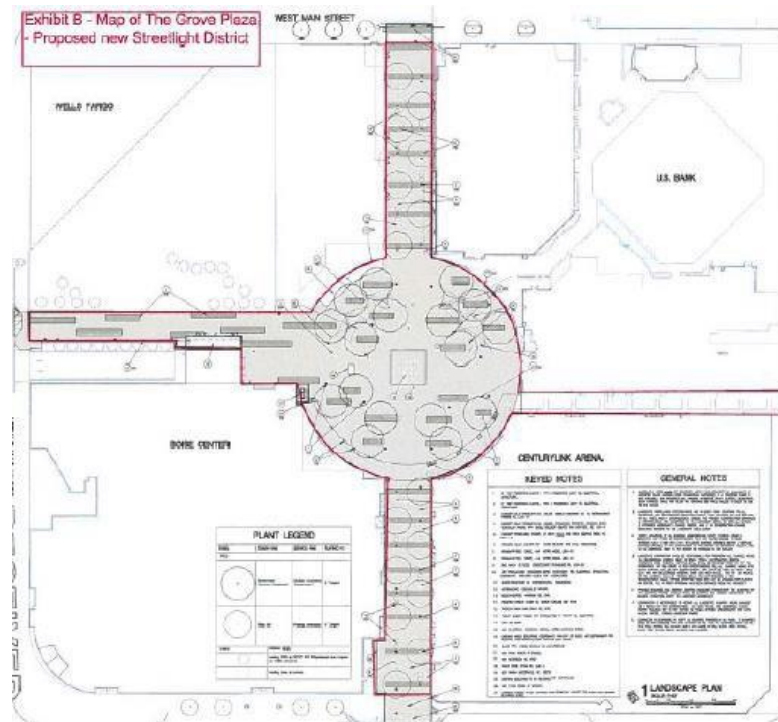
<sup>758</sup> Wording revised for clarity.

**(e) Warm Springs District:**

Three lights per block evenly spaced along street.

**C. Exceptions to General Standards****(1) The Grove Plaza**

Street lights in the Grove Plaza shown in Figure 4-48 shall be the Landscape Forms FGP 12 foot light, using model numbers and light requirements obtained from the Public Works Department, and with locations of light fixtures to be determined by the Public Works Department.



**Figure 4-48. The Grove Plaza**

**(2) 30th Street Area**

Street lights on Main Street south to the Connector and within the district boundary east and west, as shown on Figure 4-49, shall comply with the following standards:

- (a)** The light fixture for this area is the EPAX Eurotique Aluminum Pole Series 12 foot light, using model numbers and light requirements obtained from the Public Works Department.
- (b)** On east-west streets, four lights per block shall be installed and shall be evenly spaced.
- (c)** On north-south streets a light shall be installed at each alley.
- (d)** Locations of light fixtures shall be determined by the Public Works Department.





Figure 4-49. 30<sup>th</sup> Street Area Aerial

**(3) Broad Street**

Street lights on Broad Street from Capitol Boulevard to Second Street, as shown on Figure 4-50, shall comply with the following standards.

- (a) The light fixture for this area is the EPAX Eurotique Aluminum Pole Series 12 foot, Eurotique Arms and Antique Street Lamps Munich Pendant, using model numbers and light requirements obtained from the Public Works Department.
- (b) Light locations are to be determined by the Public Works Department.



Figure 4-50. Broad Street Area Aerial

**D. Installation<sup>759</sup>**

- (1) All historic street lights shall be installed and paid for by the developer of the project, shall meet current Public Works standards and be approved and inspected by the Public Works Department.
- (2) If the installation is not associated with a specific development, the applicant shall contract the work with technical assistance provided by the Public Works Department.
- (3) Upon completion and successful inspection, the Public Works Department will accept ownership of the lights and assume responsibility for operation and maintenance costs.

**11-04-011. Signs<sup>760</sup>****Commentary:**

**Organization.** This Section has been reorganized and additional headings have been added for clarity and user-friendliness – additional relocation and consolidation of content is included in this Consolidated Draft. Some language carried forward from the Code has been identified in footnotes as content-based regulations that shall not comply with the *Reed v. Gilbert* decision.

**District-Specific Standards.** The current district-based sign standards have been converted to reflect the proposed zoning district consolidations. If more than one existing district with different standards have consolidated into one new district, the less restrictive requirement was generally carried forward. Footnotes indicate specific changes from the current standards. A new Section describing signage measurements has been added to promote consistent application of these standards.

**Reed v. Gilbert.** Throughout this Section, footnotes indicate certain content that may be inconsistent with the *Reed v. Gilbert* decisions and require review by the City Attorney.

**1. Purpose**

The purpose of this Section 11-04-011 is to:

- A. Protect the health, safety, property, and welfare of the public;
- B. Provide for the neat, clean, orderly, and attractive appearance of the community;
- C. Improve the effectiveness of signs;
- D. Provide for safe construction, location, erection, and maintenance of signs;
- E. Minimize adverse visual safety factors to the traveling public; and
- F. Comply with all applicable provisions of state and federal law regarding freedom of speech and sign content neutrality.<sup>761</sup>

**2. Applicability<sup>762</sup>**

- A. All signs and advertising devices within the City boundaries shall be established, altered, changed, erected, constructed, reconstructed, moved, divided, enlarged, demolished, or maintained in compliance with this Section 11-04-011.

<sup>759</sup> Current 11-07-07.5.

<sup>760</sup> Currently 11-10. Current 11-10-02 (Sign Definitions) consolidated with other definitions in 11-06. Current 11-10-08 (Enforcement) consolidated with other enforcement provisions in 11-05-07.

<sup>761</sup> New.

<sup>762</sup> New.

- B.** This Section shall be interpreted and enforced so as to avoid violation or inconsistency with applicable state or federal law.<sup>763</sup>

### 3. Prohibited Signs<sup>764</sup>

The following signs are prohibited in all zoning districts, unless specifically permitted by another provision of this Section 11-04-011, this Code, or other City, state, or federal law.

- A.** Signs or posters that are visible from a public way and are affixed to walls, buildings, trees, poles, fences, bridges, or other structures;
- B.** Signs placed on any street right-of-way, sidewalk, pole, bridge, or tree; such signs may be deemed nuisances and removed by the City without prior notice;
- C.** Banners, pennants, strings of lights, ribbons, streamers, balloons, mechanically aided, or similar devices that call attention rather than contribute to the establishment décor;<sup>765</sup>
- D.** Portable signs except those allowed as temporary signs and those allowed in the MX-5 district.
- E.** Signs whose lighting, location or appearance would cause such signs to have the appearance of traffic safety signs and lights, or municipal vehicle warnings;
- F.** Any sign attached to or placed on a vehicle or trailer that is parked on public or private property or driven on public streets, except for signs that comply with the following standards:
  - (1)** The primary purpose of such a vehicle or trailer is not the display of signs; and
  - (2)** The signs are magnetic, decals or painted upon an integral part of the vehicle or equipment; and
  - (3)** The vehicle or trailer is in operating condition, currently registered and licensed to operate on public streets, and actively used or available for use in the daily function of the establishment to which such signs relate;
- G.** Roof signs;
- H.** Animated signs;
- I.** Strobe lights and flashing lights;
- J.** Any sort of sign used to advertise or display any visually communicated message by letter or by picture, of any kind, on any seating bench, or in direct connection with any bench unless authorized by the regional public transportation system authority as permitted from the Planning Director; and
- K.** Abandoned signs, including but not limited to any on-premises sign that relates to an establishment that no longer occupies or operates on the property where the sign is located.<sup>766</sup>

<sup>763</sup> New.

<sup>764</sup> Current 11-10-03.14.

<sup>765</sup> Several references to "business" were changed to "establishment" to promote content neutrality.

<sup>766</sup> Relocated this prohibition; second clause is new for clarification.



#### 4. Signs Not Requiring a Permit<sup>767</sup>

The following shall be exempt from requirement to obtain a Sign Permit under Sections 11-05-05.1.C, *Sign Permit for On-Premise Sign* or 11-05-05.3.K, *Sign Permit for Off-Premise Sign*, but shall be required to comply with other applicable provisions of this Section 11-04-011, unless an exception or deviation from those standards is authorized by another provisions of this Code or other City, state, or federal law.

##### A. General Signs

- (1) Official notices authorized by a court, public body, or public safety official.
- (2) Directional, warning or information signs authorized by a government.
- (3) Memorial plaques, establishment identification signs and building cornerstones when cut or carved into a masonry surface or when made an integral part of the building or structure.
- (4) The flag of government or noncommercial institution, such as a school.
- (5) Religious symbols and seasonal decorations.
- (6) Works of art containing no form of advertising.
- (7) Street address signs and combination nameplate and street address signs that contain no advertising copy and which do not exceed 6 square feet in area.
- (8) Signs oriented only to the property on which they are located and which are not visible from the public right-of-way, such as menu boards.
- (9) Signs in the display windows of an establishment that are incorporated in a display of merchandise.
- (10) "No Trespassing," "No Dumping" or similar signs not to exceed one and one-half square feet in area and not exceeding four per parcel.
- (11) Window signs that maintain 25 percent or less aggregate area of the window area.<sup>768</sup>
- (12) Political signs that are not placed in any public right-of-way and do not obstruct traffic visibility.

##### B. Temporary Signs<sup>769</sup>

- (1) Non-illuminated real estate signs that comply with the following standards:
  - (a) One per residential parcel.
  - (b) One per frontage for nonresidential.
  - (c) Six square feet for a single residential lot.
  - (d) 32 square feet in Residential and Open Land and Institutional zoning districts.<sup>770</sup>
  - (e) 64 square feet in Mixed-Use and Industrial zoning districts.<sup>771</sup>
- (2) Non-illuminated signs temporarily erected during construction to inform the public of the nature of the project that comply with the following standards:

<sup>767</sup> Current 11-10-03.13 was converted to exempt the listed signs from the requirement to obtain a permit – but not from the obligation to comply with the substantive regulations applicable to that type of sign.

<sup>768</sup> Current 11-10-05.5.

<sup>769</sup> Consolidates current Section 11-10-04.2.A., B., E. and F as temporary signage that does not require a permit,

<sup>770</sup> Updated from "residential and office zones" in the Consolidated Draft.

<sup>771</sup> Updated from "commercial and industrial zones" in the Consolidated Draft.

- (a) One per residential parcel.
- (b) One per frontage for nonresidential parcel.
- (c) Six square feet for a single residential lot.
- (d) 64 square feet in Residential and Open Land and Institutional zoning districts.<sup>772</sup>
- (e) 96 square feet in Mixed-Use and Industrial zoning districts.<sup>773</sup>
- (f) Eight square feet maximum height.<sup>774</sup>
- (3) Such signs shall not be displayed until after the issuance of construction permits and shall be removed not later than 24 hours following issuance of an occupancy permit for any portion of the project. Signs and posters advertising a special community event, including in or over public rights-of-way, subject to approval by the Planning Director as to the size, location, and method of erection based on considerations of pedestrian, bicycle, and vehicle safety and impacts on surrounding areas. Signs that might impair safety or obstruct traffic visibility shall not be approved.<sup>775</sup>
- (4) Pennants, flags, banner, balloons, and promotional sandwich boards during and for community events in the Grove that comply with the following standards:
  - (a) Signs shall not remain in place overnight.
  - (b) Sandwich boards shall not exceed a maximum height of four feet or a width of three feet.

## 5. Signs Requiring a Permit<sup>776</sup>

Unless specifically exempted by Subsection 4 above or other provision of this Code or other City, state, or federal law, each erection or installation of a sign in the City shall require the approval of a Sign Permit pursuant to Sections 11-05-05.1.C, *Sign Permit for On-Premise Sign*, 11-05-05.1.D, *Temporary Sign Permit*, or 11-05-05.3.K, *Sign Permit for Off-Premise Sign*, as applicable. Sign Permits are not required for change of copy, repainting, or other normal maintenance and repair, provided there is no expansion of the sign structure or face.<sup>777</sup>

## 6. General Sign Standards<sup>778</sup>

### A. Sign Measurement<sup>779</sup>

#### (1) Sign Height

The distance from the adjacent ground supporting the sign to the highest point of the sign. A landscape berm or other structure erected to support the sign shall be measured as part of the height. If the street to which the sign is oriented is higher than the grade at

<sup>772</sup> Updated from "residential and office zones" in the Consolidated Draft.

<sup>773</sup> Updated from "commercial and industrial zones" in the Consolidated Draft.

<sup>774</sup> New.

<sup>775</sup> Relocated from other temporary sign regulations because no formal Sign Permit is required. Criteria to guide Director's decision were added.

<sup>776</sup> Carried forward current 11-10-03.1 and 2.

<sup>777</sup> Relocated maintenance provision to Maintenance and Operation Section.

<sup>778</sup> Consolidated current 11-10-03.4, 5, 6, 8, 10, 11, and 12 and reorganized to present design and location standards first and procedural standards last. Relocated description of Gateway Streets to the accessory freestanding signs Section, relocated the abandon sign provision to Maintenance and Operation Section, and deleted reference to Lawful nonconforming signs and relocated to Chapter 11-05, Administration & Procedures.

<sup>779</sup> New dedicated Section for sign measurements to provide clarity for staff review and enforcement purposes.

the base of the sign, then the street elevation shall be used as the ground elevation for purposes of calculating the permitted height of the sign.<sup>780</sup>

## (2) Sign Area<sup>781</sup>

- (a) Sign area is calculated as the area within a continuous perimeter with up to eight straight sides that encloses the limits of text and graphics of a sign. Additionally, this area includes any frame or other material or color forming an integral part of the display or used to differentiate the sign's message from the background against which it is placed. The area excludes the structure upon which the sign is placed (unless the structure is an integral part of the display<sup>782</sup>), but includes any open space contained within the outer limits of the display face of a sign, or between any component, panel, strip, or figure of any kind composing the display face, whether this open space is enclosed by a frame or border or not.
- (b) When computing the area of sign background, only the face or faces that can be seen from one direction at one time, shall be considered.

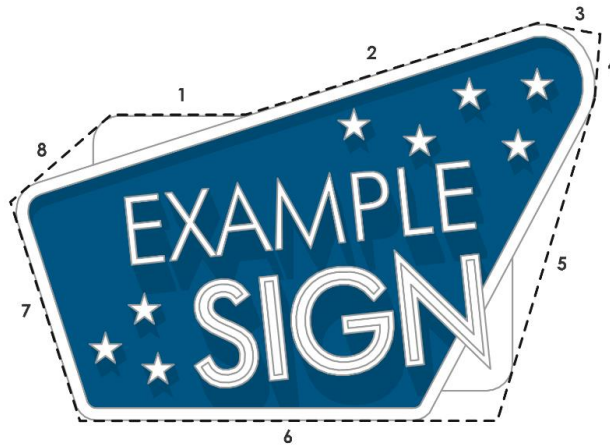


Figure 4-51. Sign Area Measurement

## B. Design <sup>783</sup>

- (1) Pole support structures shall be covered.
- (2) Signs shall complement the architectural style of the building.

## C. Traffic Visibility<sup>784</sup>

- (1) Signs shall not be permitted in the clear vision triangle as defined in this Code and ACHD.
- (2) Signs shall not be erected at any intersection so as to obstruct clear vision, or at any location where they may interfere with or obstruct the view of traffic, as determined by the Planning Director, ACHD, or the Idaho Transportation Department.

<sup>780</sup> Current 11-10-02.1.K.

<sup>781</sup> Replaces and expands the details of current 11-10-02.1.R. Standard that no two signs may be placed in the same horizontal plane unless they are 25 feet apart was deleted, since it is generally not applicable to wall signs, and particularly tenant signs in a multi-tenant project.

<sup>782</sup> The clause "or used to differentiate it" was deleted as inconsistent with the remainder of the regulation.

<sup>783</sup> Deleted the current standard for signs to be "integrated and harmonious with" as those terms are particularly difficult to interpret and apply consistently in sign regulation.

<sup>784</sup> Reference to ACHD is new, and clarification of who determines locations that will create obstructions was added.

**D. Adjacent to Residential Zones**

Signs in Mixed-Use, Industrial, or Open Land and Institutional zoning districts shall not be located within 50 feet of a Residential zoning district boundary. Where a zoning district boundary is the centerline of the street, the distance shall be measured to the opposite street side.<sup>785</sup>

**E. Street Trees**

Trees shall not be topped or removed to facilitate better view of signs.

**F. Maintenance and Repair**

Signs shall be maintained in accordance with the standards set forth in Section 11-04-012, *Operations and Maintenance*.

**7. On-Premise Signs<sup>786</sup>****A. Accessory On-Premise Signs****(1) Awning Sign****(a) Applicability<sup>787</sup>**

Awning signs are prohibited in the Residential zoning districts (excluding the R-3 zoning district), and in the O-1, O-2, and O-3 zoning districts.

**(b) Standards**

The copy area of awning signs shall not exceed an area equal to 25 percent of the background area of the awning to which the signs is affixed, or the permitted area for wall or fascia signs, whichever is less. Background colors, striping, patterns, or valances, shall not be included in the computation of the sign area.

**(2) Canopy and Marquee Signs<sup>788</sup>****(a) Applicability**

Canopy and marquee signs are prohibited in the Residential zoning districts, excluding the R-3 zoning district, and in the O-1, O-2, and O-3 zoning districts.

**(b) Standards for Under Canopy or Marquee Signs (Hanging Signs)**

- i. There shall be no more than one under canopy or under marquee sign per public entrance to any tenant or user space, and shall not exceed 16 square feet;
- ii. Each sign shall maintain a clear vertical distance above any sidewalk or pedestrian way a minimum of eight feet; and
- iii. Each sign shall be mounted perpendicular to the building wall.

**(c) Standards for Above Canopy and Above Marquee Signs**

- i. The maximum sign width shall be no more than 33 percent of the canopy face width;

<sup>785</sup> Second sentence is new for clarity.

<sup>786</sup> Generally carried forward 11-10-04 unless otherwise noted. All references to "commercial, office, and industrial" districts have been updated to reference "Mixed-Use, Industrial, and Open Land and Institutional" districts to align with the proposed changes to the zoning districts.

<sup>787</sup> New.

<sup>788</sup> New and substantially revised.

- ii. The minimum space between the bottom edge of the letter and the top of the canopy face shall be 1.5 inches; and
- iii. The maximum height of each letter shall be no more than three times the canopy face height, with a maximum of 30 inches, whichever is less.

**(d) Standards for Signs on Marquees**

- i. No more than one sign shall be permitted on each side of a marquee, and any such sign shall be in lieu of a wall, canopy, or projecting sign;
- ii. The sign area of each side shall not exceed two square feet of total area per lineal foot of building frontage or 200 square feet, whichever is smaller;
- iii. The vertical dimension of the sign shall not exceed six feet; and
- iv. The bottom of the sign shall have a minimum vertical clearance of eight feet above the sidewalk or pedestrian way.<sup>789</sup>

**(3) Freestanding Signs**

Freestanding accessory signs shall comply with the standards set forth in Table 11-04.20 and the following standards. Freestanding signs:

- (a) Shall be located within a landscaped area no smaller than the background area of the sign; new landscaped areas shall be reviewed as part of the sign application. Decorative rock may be a component of the landscaping area counted to calculate its area for this purpose;
- (b) Shall include the street address in letters at least three and one-half inches tall;
- (c) Shall be oriented perpendicular to the street providing frontage to the establishment<sup>790</sup> and be located toward the front of the parcel and as close to the main vehicle entrance as possible. Orientation to interstate highways is prohibited;
- (d) Shall be set back at least five feet from the front property line in Residential and Mixed-Use zoning districts, and one foot in Industrial and Open Land and Institutional zoning districts.
- (e) Shall be set back at least five feet from side property lines in all zoning districts;
- (f) Shall not exceed one per street frontage, except that:
  - i. Where two signs are allowed for an establishment on a street corner, each sign shall be designed and located so as to be viewed only from the street on which it is located; and
  - ii. In lieu of two signs, one corner sign designed to be viewed from both streets is allowed, provided it complies with other provisions of this Code;
- (g) May have architectural appurtenances with no text extend up to two feet over the allowed height.<sup>791</sup>

<sup>789</sup> Current inconsistency resolved by deleting 12 ft. clearance requirement in some Sections.

<sup>790</sup> Orientation perpendicular to the street has been clarified.

<sup>791</sup> Table revised to reflect new zoning districts.

**TABLE 11-04.20: FREESTANDING SIGN, MAXIMUM BACKGROUND AREA AND HEIGHT**

| ZONING DISTRICT   | MAXIMUM BACKGROUND AREA (SQUARE FEET)          | MAXIMUM HEIGHT (FEET) | GATEWAY (FEET) [1] |
|---|--|-----------------------|--------------------|
| R-1A, R-1B, R-1C, R-2, R-3, O-1, O-2, O-3   | 1 per 3 lineal ft. of street frontage up to 50 | 6                     | 6                  |
| MX-1 <sup>792</sup>   | 1 per 3 lineal ft. of street frontage up to 50 | 8                     | 8                  |
| MX-3, MX-4, MX-5, MX-U, I-1, I-2 <sup>793</sup>   | 70   | 15                    | 12                 |
| MX-2 <sup>794</sup>   | 80   | 20                    | 12                 |
| <b>Notes:</b><br>[1]Applies to freestanding signs oriented toward the following streets:<br>Capitol Boulevard; Vista Avenue from I-84 north; Broadway Avenue from I-84 north; State Street from State Capitol to Highway 55; Myrtle Street; Front Street; Federal Way from Capitol Boulevard. to Bergeson Street; Warm Springs Avenue; Park Center Boulevard. |  |                       |                    |

**(4) Directional Signs**

- (a) Up to two directional signs shall be permitted at the street entrance to any parcel. The maximum area is four square feet and the maximum height is four feet.
- (b) Non-accessory directional signs may be erected by governments giving direction to places of general interest such as colleges, parks, hospitals, or Neighborhood Associations<sup>795</sup>. Such signs shall be subject to approval by the Director as to the size, location, and method of erection.

**(5) Electronic Message Displays (EMD)****(a) Applicability<sup>796</sup>**

- i. EMDs are permitted for all uses located in the Mixed-Use, Industrial, and Open Land and Institutional zoning districts.
- ii. EMDs are only permitted for nonresidential uses located in the Residential zoning districts and in the O-1, O-2, and O-3 zoning districts.

**(b) Standards**

All electronic message displays shall comply with the following standards:

- i. Only one EMD is permitted per establishment. For establishments located in a center, only one EMD is permitted for the center.
- ii. No EMD may be installed on a non-conforming sign.
- iii. EMDs shall contain static messages only, and shall not have movement, or the appearance or optical illusion of movement, of any part of the sign structure, design, or pictorial segment of the sign, including the movement or appearance

<sup>792</sup> Currently applies to L-O, N-O, R-O, HS, T-1.

<sup>793</sup> Currently applies to C-1, C-4, C-5, M-1, M-2, and T-2

<sup>794</sup> Currently applies to C-2 and C-3.

<sup>795</sup> Reference to Neighborhood Associations is new.

<sup>796</sup> New.

of movement of any illumination or the flashing, scintillating, or varying of light intensity.

- iv. Each message or frame shall be displayed for a minimum of 20 seconds.<sup>797</sup>
- v. Area shall not occupy more than 50 percent of the sign.
- vi. The brightness or intensity of the EMD shall be factory set not to exceed 5,000 nits on clear days and 500 nits from dawn to dusk. The EMD shall also not exceed 50 percent of its maximum brightness on clear days and 10 percent of maximum brightness from dawn to dusk. Each display shall have a light sensing meter that will adjust the display brightness as the ambient light changes.<sup>798</sup>
- vii. Text-only single-color message displays with letters no higher than 12 inches may scroll or travel without the static message limitation. Maximum area for such displays is eight square feet.

#### (6) Portable Signs

##### (a) Applicability

Portable signs are only permitted in the MX-5 district, and shall comply with the following standards.

##### (b) Standards

##### i. Number

- A. Each ground floor establishment with street frontage is allowed one per street frontage.
- B. One sign per building frontage may be permitted for upper levels and one for below ground uses.

##### ii. Maximum Sign Area

Maximum sign area is seven square feet.

##### iii. Location

- A. Signs shall be located outside vision triangles in the furnishing zone or close to the curb in front of the establishment and shall not obstruct pedestrian traffic or violate ADA guidelines.
- B. If adequate space does not exist in a furnishing zone or near the curb, a sign may be placed in a vestibule or alcove near a building entrance, so long as a five foot clear pedestrian zone is maintained. Signs shall not be placed within five feet of the curb abutting an on-street accessible parking stall.

##### iv. Materials

Signs shall be made of stable and durable material.<sup>799</sup>

<sup>797</sup> Increased from current eight second standard to mitigate potential vehicular distraction or other visual blight.

<sup>798</sup> Final sentence that brightness levels shall be appropriate for ambient light conditions was deleted as vague and unnecessary in light of the earlier standards.

<sup>799</sup> Text requiring that signs be aesthetically pleasing was not carried forward, as too vague to enforce.

**(7) Projecting Sign****(a) Applicability<sup>800</sup>**

Projecting signs are prohibited in the Residential zoning districts, excluding the R-3 zoning district, and in the O-1, O-2, and O-3 zoning districts.

**(b) Standards****i. Maximum Background Area**

The maximum background area shall be:

- A.** The lesser of five percent of the wall area facing a street or 50 square feet in the MX-1 district.<sup>801</sup>
- B.** The lesser of 10 percent of the wall area facing a street or 75 square feet in all other districts where allowed.
- C.** When both projecting and wall signs are used, the maximum area for both signs is reduced by 50 percent.

**ii. Number Allowed**

- A.** One per street level establishment for each street frontage.
- B.** Where there is more than 150 feet of frontage for one establishment, a second sign is permitted.

**iii. Projection Above Building Height**

No sign shall extend vertically above the highest point of the building facade upon which it is mounted by more than two feet.

**iv. Projection from Wall**

The projection from the wall shall be no more than 10 feet, or to within two feet of the face of the curb, whichever is less.

**v. Clearance**

Clearance over public property shall be a minimum of 12 feet.

**vi. Maximum Height**

No portion of any projecting sign shall extend more than 30 feet above the ground.

**(8) Wall Signs****(a) Wall Signs Oriented to Interstate Highways****i. Applicability**

In the Mixed-Use, Industrial, and Open Land and Institutional zoning districts, properties that abut I-84 or I-184 southwest of 15th Street may have one wall sign per establishment oriented to the highway, provided the sign complies with the following standards:

<sup>800</sup> Deleted table as unnecessary and identified only the prohibitions, rather than both allowances and prohibitions. Projecting signs are currently prohibited in the N-O and L-O zoning districts, but allowed in the new MX-1 district.

<sup>801</sup> Currently applied to the C-1 district.



**ii. Standards****A. Area**

One square foot in sign area for each lineal foot of wall up to 32 square feet.

**B. Height**

Shall not exceed the height of the wall or 30 feet.

**iii. Prohibited Signs**

EMDs and other forms of signage using light emitting diode (LED) technology are prohibited.<sup>802</sup>

**(b) All Other Wall Signs**

Wall signs shall comply with the standards in Table 11-04.21 and the following standards:

- i.** Wall signs shall not project above the wall to which they are attached.
- ii.** Wall signs shall face the street or streets that the building faces, except that a sign on a building wall in a Mixed-Use, Industrial, or Open Land and Institutional zoning district that does not face a street may be permitted if it complies with the following standards:
  - A.** The sign area may be borrowed from that allowed on the building wall facing the street; and
  - B.** The sign area shall not exceed 10 percent of the building wall; where multiple tenants or users are located in a single building, and allowable sign area is allocated between some or all of those tenants or users, the calculation of the 10 percent maximum sign area shall be allocated among each tenant or user based on the square footage of the ground floor wall space of the building frontage occupied by that individual tenant or user, rather than the wall area of the building as a whole;<sup>803</sup> and
  - C.** The sign faces an abutting property zoned Mixed-Use, Industrial, or Open Land and Institutional.
- iii.** In Mixed-Use, Industrial, or Open Land and Institutional zoning districts, the sign area allowed may be divided among multiple signs according to Table 11-04.21 below.

**TABLE 11-04.21: WALL SIGNS**

| ZONING DISTRICT   | MAXIMUM SIGN AREA  |
|---|--|
| R (multifamily and nonresidential signs), O-1, O-2, and O-3 | One square foot per three lineal feet of building facing street. Maximum 50 square feet. |

<sup>802</sup> Replaced reference to readerboard with other forms of LED signs, since most definitions of readerboards overlap the definition of EMD.

<sup>803</sup> Second clause is new, to reflect current practice.

**TABLE 11-04.21: WALL SIGNS**

| ZONING DISTRICT                           | MAXIMUM SIGN AREA  |
|---|--|
| MX-1 <sup>804</sup>                       | One square foot per two lineal feet of building facing street. Maximum 75 square feet. |
| MX-3, MX-4 <sup>805</sup>                 | 15% of building wall facing the street.  |
| MX-2, MX-5, MX-U, I-1, I-2 <sup>806</sup> | 20% of building wall facing the street.  |

**B. Temporary Signs<sup>807</sup>****(1) Special Promotions, Event and Grand Opening Signs**

Any lawful location for a nonresidential use, except a Home Occupation, may have one temporary, portable sign that complies with the following standards, after obtaining a Sign Permit pursuant to Section 11-05-05.1.D *Temporary Sign Permit*:

- (a) Within any calendar year, each establishment shall be limited to the display of one temporary sign for a maximum of three 30 consecutive day periods. Each 30 day period shall be separated by at least 30 days.
- (b) Maximum sign area is 32 square feet
- (c) Maximum sign height for freestanding signs is eight feet.

**8. Alternative Sign Plan<sup>808</sup>**

- A. Multi-tenant nonresidential developments on at least two acres that are planned and developed as a unit shall obtain approval of an Alternative Sign Plan pursuant to Section 11-05-05.2.A before constructing or installing any sign on the property. This includes but is not limited to:
  - (1) Hospital complexes on sites of two acres or larger;
  - (2) Office centers with multiple building on sites of two acres or larger; and
  - (3) Industrial parks with multiple buildings on sites of five acres or larger.
- B. The Alternative Sign Plan shall establish standards and criteria for all signs that require Sign Permits and shall address location, materials, design, and quantity.
- C. One freestanding center sign is permitted on each street frontage, with a maximum of two, according to the provisions of the following Table 11-04.22. Where there is more than 1,000 feet of frontage on a street, a second sign is allowed. Center signs on Gateway Streets shall not exceed the Gateway Street height standards.
- D. Freestanding signs shall be located as near to the primary access driveway to the maximum extent practicable.
- E. Freestanding signs in Mixed-Use, Industrial, and Open Land and Institutional zoning districts shall not be closer than 150 feet from any Residential district.

<sup>804</sup> Currently applies to L-O, N-O, R-O, HS.

<sup>805</sup> Currently applies to C-1, C-4, PC, M-4

<sup>806</sup> Currently applies to C-2, C-3, C-5, M-1, M-2, T-1, T-2.

<sup>807</sup> Carried forward 11-10-04.2.C. and D. Standards for temporary signs that do not require a permit are now included in the Signs Not Requiring a Permit Section.

<sup>808</sup> Renamed from Master Sign Plan and relocated from within On-Premise Signs.

- F. Separate building pads within centers and parks are allowed one monument style sign with a maximum height of eight feet and a maximum background sign area of 32 square feet, but shall not exceed the standards in Table 11-04.20.
- G. Wall signs are permitted in any number, location, or orientation, provided they do not face a Residential district,<sup>809</sup> and provided the total square footage does not exceed 18 percent of the wall face upon which the signs are placed.
- H. Sign height and placement shall be consistent throughout the development.
- I. Signs shall incorporate materials, colors and design motifs that are compatible with buildings in the development.

**TABLE 11-04.22: CENTER SIGN MAXIMUM BACKGROUND AREA AND HEIGHT**

| ZONING DISTRICT                                 | MAXIMUM BACKGROUND AREA (SQUARE FEET) | MAXIMUM HEIGHT (FEET) |
|---|---------------------------------------|-----------------------|
| MX-1 <sup>810</sup>                             | 80                                    | 8 <sup>811</sup>      |
| MX-3, MX-4, MX-5, MX-U, I-1, I-2 <sup>812</sup> | 100                                   | 25                    |
| MX-2 <sup>813</sup>                             | 150                                   | 30                    |

## 9. Off-Premise Signs

### A. Off-Site Identification

When off-site identification is needed because of excessive distance from a public street, lack of street frontage, unusual topography or other special circumstances, an off-premise sign may be allowed with a Conditional Use Permit. The standard conditional use approval criteria and the special circumstances noted above shall be used to evaluate the request. The base zoning district standards for sign size and location shall apply.

### B. Poster Panel and Bulletin Panel Off-Premise Signs (Billboards)

Each application for a billboard shall be accompanied by a demolition permit for an existing billboard. The number of billboard signs in the City shall not be increased except through annexation. Off-premise poster panels and bulletin panels are only permitted in the MX-2, MX-3, I-1, and I-2 zoning districts, and only after approval of a Conditional Use Permit, provided that no signs may be located on Capitol Boulevard or on Federal Way between Capitol Boulevard and Bergeson Street.<sup>814</sup>

#### (1) Approval Criteria

The Planning and Zoning Commission shall make the following findings:

- (a) That the sign will not negatively impact the visual quality of a public open space.

<sup>809</sup> Residential property replaced with Residential district.

<sup>810</sup> Currently applies in L-O, N-O, R-O, HS, T-1.

<sup>811</sup> Maximum height reduced from 15 ft.

<sup>812</sup> Currently applies in C-1, C-4, C-5, PC, M-1, M-2, T-2.

<sup>813</sup> Currently applies in C-2 and C-3.

<sup>814</sup> Currently applies in C-2, C-3, M-1 and M-2.

- (b) That the sign will not block the view of a structure of historical or architectural significance.
- (c) That sign height is compatible with buildings within a 300 foot radius. Where view of the sign would be blocked by buildings, or where view of buildings would be blocked by the sign, the sign height shall not exceed the building height by more than 12 feet. Where there are no buildings within 300 feet, sign height shall not exceed 22 feet.
- (d) That sign lighting will not spill onto adjacent properties.

## (2) Design and Location

New signs shall comply with the following standards:

- (a) Sign area height shall not exceed 10.5 feet.
- (b) Sign area shall not exceed 248 square feet for poster panels and 378 square feet for bulletin panels.
- (c) Sign height shall not exceed 40 feet, but may be limited to less by 11-04-011.9.B(1)(c) above.
- (d) No sign may be located within 1,000 feet of another billboard on the same side of the street. However, if a sign is larger than 312 square feet, the distance to another such sign shall be at least 2,000 feet.
- (e) A sign on one side of the street may be no closer than 150 feet from a sign on the opposite side of the street, as measured along the line of travel.
- (f) At any street intersection, there may be no more than 496 square feet of billboard sign area within 250 feet measured from the street corner curbs.
- (g) Back-bracing is prohibited.
- (h) View of the sign should be unobstructed for 250 feet along the line of travel.
- (i) Electronic message displays are allowed with static frame effects that change with no transition - no more frequently than every eight seconds. Brightness levels shall comply with Section 11-04-011.7.A(5)(b)vi.
- (j) Setbacks shall be at least five feet from any property line. When adjacent to a Residential zoning district, the setback of that residential zoning district shall be met.

## 10. Special Sign Districts<sup>815</sup>

### A. Capitol Boulevard Sign Standards

In addition to the generally applicable sign regulations of this Section 11-04-011, these special standards apply in the Capital Boulevard Special Design District.

#### (1) Review

- (a) Signs require Design Review approval as an overall sign plan for the site.
- (b) The Design Review Commission shall provide recommendations to the Planning and Zoning Commission on requests for Variances and Conditional Use Permits.

<sup>815</sup> Carried forward current 11-10-07 with no changes.

**(2) General Standards<sup>816</sup>**

- (a) One wall sign, or one projecting sign, or one freestanding sign per building is permitted for each street frontage in accordance with the following standards.
  - i. Wall signs shall not exceed 15 percent of the wall area or 65 square feet in size, whichever is less.
  - ii. Projecting signs shall not exceed 25 square feet in area and shall not exceed the building height or 20 feet, whichever is less.
  - iii. Freestanding signs are allowed as per the size and height regulations for Gateway Streets in Table 11-04.20.
- (b) One wall sign per street frontage may exceed the maximum size allowed in Subsection (a) if it is reviewed and approved by the Design Review Commission. The Design Review Commission shall take into account the scale and height of the building, the visibility and orientation of the proposed sign, and impacts on the Capitol Boulevard view corridor when evaluating these requests.<sup>817</sup>
- (c) In addition to the signs in Subsection (a), each building with more than one tenant or occupant is allowed either: one 20 square foot wall sign or one 12 square foot projecting sign per tenant or occupant located on the ground floor of the building.
- (d) Colors, materials, and lighting shall be restrained and harmonious with the building and site.
- (e) Use of neon is encouraged for illumination.
- (f) Electronic message displays are permitted only with a Conditional Use Permit. Manual readerboards require approval by the Design Review Commission.

**11-04-012. Operations and Maintenance<sup>818</sup>****1. Landscaping, Buffering, and Screening Maintenance<sup>819</sup>**

All landscaping, buffering, and screening required by this Code shall be maintained by the property owner in compliance with the following standards.

- A. No required street tree shall be topped without the written permission of the City. For street trees not located within a public right-of-way, alternative pruning techniques to achieve specific horticultural or aesthetic effects may be used if approved by the Parks and Recreation Department. Examples include pleached allee, pleached bosque, espalier, and pollarded canopy.<sup>820</sup>
- B. Tree grates shall be widened to accommodate the growing tree trunk and prevent girdling of any trees planted in tree wells within sidewalks or other public right-of-way.
- C. Plant materials that exhibit evidence of insect pests, disease, and/or damage shall be appropriately treated to correct the problem. Dead plant materials shall be replaced.

<sup>816</sup> This Section has been revised to clarify the types and sizes of signs allowed.

<sup>817</sup> New standard to address common appeals to the size standards.

<sup>818</sup> New Section to consolidate all regulations regarding post-approval property owner responsibilities.

<sup>819</sup> Current 11-07-05.2.J., reworded for clarity and internal consistency.

<sup>820</sup> Reference to Forestry Division replaced more general reference to Department.

- D. All required landscaping shall be subject to periodic inspections by City officials to determine compliance.
- E. Required landscaped areas in residential subdivisions that are not located in individual lots shall be placed under the control and maintenance of a Homeowners' Association, unless the applicant can demonstrate that the landscaping will be maintained in an attractive condition by another entity including but not limited to individual property owners or the ACHD.<sup>821</sup>
- F. All fences shall be maintained and kept structurally sound so as to not endanger life, property or become a nuisance.<sup>822</sup>

## 2. Exterior Lighting<sup>823</sup>

All exterior lighting required to comply with Section 11-04-010, *Exterior Lighting* shall be maintained by the property owner in compliance with the following standards.

- A. All lighting fixtures that are required to be shielded shall be installed and maintained so that they maintain compliance with all standards for shielded fixtures as specified in Section 11-04-010, *Exterior Lighting* and other applicable regulations as adopted by the City.
- B. Exterior lighting fixtures shall comply with the building code, the energy efficiency standards, and other applicable regulations adopted by the City.<sup>824</sup>
- C. Exterior lighting shall be maintained in good structural condition at all times.

## 3. Signs<sup>825</sup>

- A. Signs shall be maintained by the property owner in a state of good appearance, safety, and repair.
- B. Any on-premise sign associated with a building or establishment that has been vacant and unoccupied for more than six months, or any sign no longer associated with the use on the property shall be deemed abandoned and shall be removed by the property owner.

## 4. Noise<sup>826</sup>

All activities shall comply with Title 5, Chapter 7 of the Boise City Code regarding permissible levels of noise and shall be conducted so as to avoid the creation of any noise that would create a public nuisance interfering with the use and enjoyment of adjacent properties.

## 5. Glare, Heat, Smoke, Fumes, Radiation, and Odors<sup>827</sup>

Every use shall be operated so that it does not exceed an objectionable or dangerous degree of glare, heat, fumes, electromagnetic radiation, nuclear radiation, or odors beyond any property line of the site on which the use is located.

<sup>821</sup> Current 11-09-04.10.D, reworded for clarity.

<sup>822</sup> Current 11-07-05.3.B.6.

<sup>823</sup> New.

<sup>824</sup> Reference to energy efficiency standards is new.

<sup>825</sup> Current 11-10-03 3. and 4.

<sup>826</sup> New cross reference to the City of Boise Noise Ordinance.

<sup>827</sup> New.

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**6. Vibration<sup>828</sup>**

Every use shall be operated so that the ground vibration inherently and recurrently generated is not perceptible, without instruments, at any point on any property line of site on which the use is located.

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**7. Hazardous Materials<sup>829</sup>**

All uses and activities shall comply with all state and federal laws and regulations regarding the use, storage, handling, and transportation of flammable liquids, liquefied petroleum, gases, explosives, hazardous materials, hazardous wastes, toxic materials, and solid wastes, as those terms are defined by applicable statutes, rules, regulations, or ordinances.

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**8. Waste Materials**

- A.** No materials or wastes shall be deposited upon a property in any form or manner that would permit natural causes or forces to transfer them off the site.
- B.** All materials or wastes that may cause fumes or dust, or that constitute a fire hazard, or that may be edible by or otherwise attractive to rodents or insects shall only be stored outdoors in closed trash containers that are screened from adjacent property.
- C.** All biomedical wastes that are processed through ozonation treatment shall either be beneficially reused, recycled, or rendered safe for disposal in a municipal solid waste landfill or other approved disposal facility, or as otherwise permitted by state and federal law.

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<sup>828</sup> New.

<sup>829</sup> New.

# Chapter 11-05 Administration and Procedures

## Commentary:

This Chapter describes the process for reviewing and approving development applications in Boise.

The Chapter begins with a summary table that provides a snapshot of the review procedures, public notice requirements, pre-submittal activities, and the review and decision-making authorities.

The next section describes the decision-making authorities in Boise as they relate to this Code followed by the common review procedures that apply to most development application types.

The subsequent sections describe the application-specific development procedures, linking back to applicable common review procedures and noting any modifications or additions. Each specific procedure includes a new, simpler flowchart depicting the steps for review and approval.

The final sections of this Chapter address nonconformity provisions and the City's enforcement regulations.

### 11-05-01. Purpose<sup>830</sup>

The purpose of this Chapter 11-04 is to identify the roles and responsibilities of appointed and elected boards and City officials, departments, and staff in the administration of this Code and describes procedures for review of applications for development.

### 11-05-02. Summary Table of Review and Decision-Making Procedures<sup>831</sup>

Table 11-05.1 identifies the development procedures authorized by this Code and establishes whether public notice is required, whether pre-submittal activities are required, and the role of the City review and decision-making bodies and whether public hearings are required during each process.

<sup>830</sup> Current 11-02-01 and 11-03-01. Simplified language.

<sup>831</sup> Current 11-03-02. Current Special Exception process was not carried forward based on staff finding that it was no longer necessary. Current General Exception was not carried forward because it has the same effect as a Zoning Map Amendment and has been consolidated in that procedure.



**TABLE 11-05.1: SUMMARY OF REVIEW AND DECISION-MAKING PROCEDURES<sup>832</sup>**

**R = RECOMMENDATION    D: DECISION    A: APPEAL    < > PUBLIC HEARING**

|  |                                      | Public Notice            |        |        | Pre-Submittal Activities <sup>833</sup> |                      |                    |                          | Review and Decision-Making Bodies |                                 |   |                                  |                              |              |
|--|--------------------------------------|--------------------------|--------|--------|---|----------------------|--------------------|--------------------------|-----------------------------------|---------------------------------|---|----------------------------------|------------------------------|--------------|
| Application  | Type of Procedure and Code Reference | Published <sup>834</sup> | Mailed | Posted | Concept Review                          | Neighborhood Meeting | Mid-Process Review | Interdepartmental Review | Planning Director                 | Hearing Examiner <sup>835</sup> | Design Review Commission <sup>836</sup> | Historic Preservation Commission | Planning & Zoning Commission | City Council |
| Type 1 Ministerial Review <sup>837</sup>                                 |                                      |                          |        |        |   |                      |                    |                          |                                   |                                 |   |                                  |                              |              |
| Home Occupation Permit for Family Daycare Home or Group Daycare Facility | Type 1<br>11-05-05.1.A               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Home Occupation Permit - Other   | Type 1<br>11-05-05.1.B               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Sign Permit for On-Premise Sign  | Type 1<br>11-05-05.1.C               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Temporary Sign Permit  | Type 1<br>11-05-05.1.D               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Temporary Use Permit   | Type 1<br>11-05-05.1.E               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Zoning Permit  | Type 1<br>11-05-05.1.F               |                          |        |        |   |                      |                    |                          | D                                 |                                 |   |                                  |                              |              |
| Type 2 Administrative Decisions by Director                              |                                      |                          |        |        |   |                      |                    |                          |                                   |                                 |   |                                  |                              |              |
| Alternative Sign Plan  | Type 2<br>11-05-05.2.A               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Certificate of Appropriateness - Minor                                   | Type 2<br>11-05-05.2.B               |                          |        |        | ✓                                       |                      |                    |                          | D                                 |                                 |   | <A>                              |                              |              |

<sup>832</sup> New table. Revised to reflect Type 1 through 4 procedures. Separate process for reduction of child care parking and drive through standards was not carried forward, but is now included as a form of Administrative Variance.

<sup>833</sup> Current Pre-Application Meeting replaced by Concept, Mid-Process, and Interdepartmental Review.

<sup>834</sup> Published notice has been removed (but mailed and posted notices retained) for several types of applications that require site-specific decisions. Staff is confirming consistency of these requirements with LLUPA. Most communities only require published notice for actions affecting all or large portions of the city.

<sup>835</sup> The City is reinstating its previous Hearing Examiner position and process with authority to approve minor types of development applications. In several cases, appeals that currently go to the PZC would now go to the Hearing Examiner.

<sup>836</sup> The City intends to redesignate the Design Review Commission to a Commission, which will streamline future appeals.

<sup>837</sup> Availability of a second appeal of administrative decisions to City Council (after an initial appeal to Planning and Zoning Commission) has been deleted for several types of decisions. In these cases, appeals concern technical questions of consistency with adopted objective standards, and a single appeal is generally considered adequate. In addition, provisions for extending less restrictive zoning to all of a split zoned parcel was not carried forward; standard Zoning Map Amendment provisions will apply.

**TABLE 11-05.1: SUMMARY OF REVIEW AND DECISION-MAKING PROCEDURES<sup>832</sup>**

**R = RECOMMENDATION    D: DECISION    A: APPEAL    < > PUBLIC HEARING**

| Application   | Type of Procedure and Code Reference | Public Notice            |        |        | Pre-Submittal Activities <sup>833</sup> |                      |                    |                          | Review and Decision-Making Bodies |                                 |   |                                  |                              |              |
|---|--------------------------------------|--------------------------|--------|--------|---|----------------------|--------------------|--------------------------|-----------------------------------|---------------------------------|---|----------------------------------|------------------------------|--------------|
|   |                                      | Published <sup>834</sup> | Mailed | Posted | Concept Review                          | Neighborhood Meeting | Mid-Process Review | Interdepartmental Review | Planning Director                 | Hearing Examiner <sup>835</sup> | Design Review Commission <sup>836</sup> | Historic Preservation Commission | Planning & Zoning Commission | City Council |
| Conditional Use - Minor Expansion                                       | Type 2<br>11-05-05.2.C               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Design Review – Minor Projects  | Type 2<br>11-05-05.2.D               |                          |        |        | ✓                                       |                      |                    | ✓                        | D                                 |                                 | <A>                                     |                                  |                              |              |
| Fair Housing Reasonable Accommodation <sup>838</sup>                    | Type 2<br>11-05-05.2.E               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Floodplain Permit <sup>839</sup>  | Type 2<br>11-05-05.2.F               |                          |        |        | ✓                                       |                      |                    |                          | D                                 |                                 |   |                                  | <A>                          |              |
| Hillside Development Permit - Category 1 or 2 <sup>840</sup>            | Type 2<br>11-05-05.2.G               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Nonconformity - Confirmation, Change, or Minor Expansion <sup>841</sup> | Type 2<br>11-05-05.2.H               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| PUD Modification - Minor  | Type 2<br>11-05-05.2.I               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Record of Survey <sup>842</sup>   | Type 2<br>11-05-05.2.J               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| Residential Small Lot Approval - Minor <sup>843</sup>                   | Type 2<br>11-05-05.2.K               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |
| River System Permit - Minor <sup>844</sup>                              | Type 2<br>11-05-05.2.L               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |              |

<sup>838</sup> New.

<sup>839</sup> Second appeal to Council was not carried forward for this technical permit.

<sup>840</sup> Appeal to Planning and Zoning Commission, with second appeal to City Council, replaced by single appeal to Hearing Examiner for this fact-based inquiry.

<sup>841</sup> Appeal to Planning and Zoning Commission, with second appeal to City Council, replaced by single appeal to Hearing Examiner for this fact-based inquiry.

<sup>842</sup> Appeal to Planning and Zoning Commission, with second appeal to City Council, replaced by single appeal to Hearing Examiner for this fact-based inquiry.

<sup>843</sup> New.

<sup>844</sup> This type of permit has been recategorized as an administrative decision based on the technical nature of the decision and related criteria. Appeal to Planning and Zoning Commission, with second appeal to City Council has been, replaced by single appeal to Hearing Examiner for this fact-based inquiry.

**TABLE 11-05.1: SUMMARY OF REVIEW AND DECISION-MAKING PROCEDURES<sup>832</sup>**

**R = RECOMMENDATION    D: DECISION    A: APPEAL    < > PUBLIC HEARING**

| Application  | Type of Procedure and Code Reference | Public Notice            |        |        | Pre-Submittal Activities <sup>833</sup> |                      |                    |                          | Review and Decision-Making Bodies |                                 |   |                                  |                              |                       |
|--|--------------------------------------|--------------------------|--------|--------|---|----------------------|--------------------|--------------------------|-----------------------------------|---------------------------------|---|----------------------------------|------------------------------|-----------------------|
|  |                                      | Published <sup>834</sup> | Mailed | Posted | Concept Review                          | Neighborhood Meeting | Mid-Process Review | Interdepartmental Review | Planning Director                 | Hearing Examiner <sup>835</sup> | Design Review Commission <sup>836</sup> | Historic Preservation Commission | Planning & Zoning Commission | City Council          |
| Special Allowed Use with Allowed Form                        | Type 2<br>11-05-05.2.M               |                          |        |        | ✓                                       |                      |                    | ✓                        | D                                 |                                 | <A>                                     |                                  |                              |                       |
| Zoning Certificate <sup>845</sup>                            | Type 2<br>11-05-05.2.N               |                          |        |        | ✓                                       |                      |                    |                          | D                                 | <A>                             |   |                                  |                              |                       |
| Type 3 Decisions by an Appointed Body                        |                                      |                          |        |        |   |                      |                    |                          |                                   |                                 |   |                                  |                              |                       |
| Certificate of Appropriateness - Major <sup>846</sup>        | Type 3<br>11-05-05.3.A               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   | <D>                              |                              | <A>                   |
| Conditional Use Permit - Initial Approval or Major Expansion | Type 3<br>11-05-05.3.B               | ✓                        | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>                   |
| Design Review - Major Projects                               | Type 3<br>11-05-05.3.C               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 | <D>                                     |                                  |                              | <A><br><sup>847</sup> |
| Floodplain Variance <sup>848</sup>                           | Type 3<br>11-05-05.3.D               |                          | ✓      | ✓      | ✓                                       | ✓                    |                    | ✓                        | R                                 | <D>                             |   |                                  | <A>                          |                       |
| Hillside Development Permit - Category 3                     | Type 3<br>11-05-05.3.E               |                          | ✓      | ✓      | ✓<br><sup>849</sup>                     | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>                   |
| Nonconformity - Major Expansion                              | Type 3<br>11-05-05.3.F               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>                   |
| PUD Modification - Major                                     | Type 3<br>11-05-05.3.G               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>                   |
| Reclassification of Historic Resource <sup>850</sup>         | Type 3<br>11-05-05.3.H               |                          | ✓      |        | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   | <D>                              |                              | <A>                   |

<sup>845</sup> The Zoning Certificate includes the use-specific applications for Accessory Dwelling Unit, Duplex, Group Childcare Home, and Home Occupation. Because the process for approval or each of those types of application is the same, we have listed a single process, even though the approval process for some of them are different.

<sup>846</sup> Appeal revised to go directly to Council.

<sup>847</sup> Appeal revised to go directly to Council.

<sup>848</sup> Revised from decision by Planning and Zoning Commission because of the technical nature of the decision. Appeal revised from City Council to Planning and Zoning Commission.

<sup>849</sup> New.

<sup>850</sup> Appeal revised to go directly to Council.

**TABLE 11-05.1: SUMMARY OF REVIEW AND DECISION-MAKING PROCEDURES<sup>832</sup>**

**R = RECOMMENDATION    D: DECISION    A: APPEAL    < > PUBLIC HEARING**

| Application  | Type of Procedure and Code Reference | Public Notice            |        |        | Pre-Submittal Activities <sup>833</sup> |                      |                    |                          | Review and Decision-Making Bodies |                                 |   |                                  |                              |              |
|--|--------------------------------------|--------------------------|--------|--------|---|----------------------|--------------------|--------------------------|-----------------------------------|---------------------------------|---|----------------------------------|------------------------------|--------------|
|  |                                      | Published <sup>834</sup> | Mailed | Posted | Concept Review                          | Neighborhood Meeting | Mid-Process Review | Interdepartmental Review | Planning Director                 | Hearing Examiner <sup>835</sup> | Design Review Commission <sup>836</sup> | Historic Preservation Commission | Planning & Zoning Commission | City Council |
| Residential Small Lot Approval - Major <sup>851</sup>    | Type 3<br>11-05-05.3.I               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 | <D>                                     |                                  |                              | <A>          |
| River System Permit - Major                              | Type 3<br>11-05-05.3.J               |                          | ✓      | ✓      | ✓ <sup>852</sup>                        | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>          |
| Sign Permit for Off-Premise Sign                         | Type 3<br>11-05-05.3.K               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>          |
| Special Allowed Use with Alternative Form <sup>853</sup> | Type 3<br>11-05-05.3.L               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <D>                          | <A>          |
| Variance   | Type 3<br>11-05-05.3.M               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 | <D>                             |   |                                  |                              |              |
| Type 4 Major Decisions by City Council                   |                                      |                          |        |        |   |                      |                    |                          |                                   |                                 |   |                                  |                              |              |
| Annexation of Land and Related Zoning Map Amendment      | Type 4<br>11-05-05.4.A               |                          | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <R>                          | <D>          |
| Code Adoption or Amendment                               | Type 4<br>11-05-05.4.B               |                          | ✓      | ✓      | ✓                                       | ✓                    |                    | ✓                        | R                                 |                                 | R[1]                                    | R[2]                             | <R>                          | <D>          |
| Comprehensive Plan Adoption or Amendment                 | Type 4<br>11-05-05.4.C               | ✓                        | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  | <R>                          | <D>          |
| Development Agreement                                    | Type 4<br>11-05-05.4.D               |                          | ✓      | ✓      | ✓                                       | ✓                    |                    | ✓                        | R                                 |                                 |   |                                  | <R>[3]                       | <D>          |
| Major Historic Preservation Actions                      | Type 4<br>11-05-05.4.E               |                          | ✓[4]   | ✓[4]   | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   | <R>                              |                              | <D>[5]       |
| Street Name Change                                       | Type 4<br>11-05-05.4.F               |                          | ✓      | ✓      | ✓                                       | ✓                    |                    | ✓                        | R                                 |                                 |   |                                  |                              | <D>          |
| Subdivision Plat - Preliminary                           | Type 4<br>11-05-05.4.G               |                          | ✓      | ✓      | ✓[6]                                    | ✓[6]                 | ✓[6]               | ✓[6]                     | R                                 |                                 |   |                                  | <R>                          | <D>          |
| Subdivision Plat - Final                                 | Type 4<br>11-05-05.4.H               |                          |        |        | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 |   |                                  |                              | D            |

<sup>851</sup> New.

<sup>852</sup> New,

<sup>853</sup> New.

**TABLE 11-05.1: SUMMARY OF REVIEW AND DECISION-MAKING PROCEDURES<sup>832</sup>**

**R = RECOMMENDATION    D: DECISION    A: APPEAL    < > PUBLIC HEARING**

| Application   | Type of Procedure and Code Reference | Public Notice            |        |        | Pre-Submittal Activities <sup>833</sup> |                      |                    |                          | Review and Decision-Making Bodies |                                 |   |                                  |                              |              |
|---|--------------------------------------|--------------------------|--------|--------|---|----------------------|--------------------|--------------------------|-----------------------------------|---------------------------------|---|----------------------------------|------------------------------|--------------|
|   |                                      | Published <sup>834</sup> | Mailed | Posted | Concept Review                          | Neighborhood Meeting | Mid-Process Review | Interdepartmental Review | Planning Director                 | Hearing Examiner <sup>835</sup> | Design Review Commission <sup>836</sup> | Historic Preservation Commission | Planning & Zoning Commission | City Council |
| Subdivision Plat – Vacation   | Type 4<br>11-05-05.4.I               |                          |        |        | ✓                                       | ✓                    | ✓                  | ✓                        |                                   |                                 |   |                                  |                              | <D>          |
| Zoning Map Amendment (Rezoning, including Planned Unit Development) | Type 4<br>11-05-05.4.J               | ✓                        | ✓      | ✓      | ✓                                       | ✓                    | ✓                  | ✓                        | R                                 |                                 | R[1]                                    | R[2]                             | <R>                          | <D>          |

**Notes:**

- [1] Only required if application is to establish a Design Review Overlay district other than an HD-O district.
- [2] Only required if application is to establish an HD-O district.
- [3] If requested by City Council.
- [4] Notice varies depending on specific action being requested.
- [5] Council action only required if HPC recommends approval for some actions.
- [6] Required for applications for proposed subdivisions that include 40 or more lots or dwelling units.

## 11-05-03. Review and Decision-Making Bodies<sup>854</sup>

### 1. Purpose<sup>855</sup>

This purpose of this Section 11-05-03 is to describe the organization, powers, and duties of the offices and governing bodies responsible for the administration of this Code.

### 2. City Council<sup>856</sup>

#### A. Duties, Jurisdiction, And Authority

The Boise City Council ("the Council") is the final legislative authority on zoning and land use decisions. The Director and all commissions and committees indicated in this Code function at the direction of the Council. Specific duties and authority of the Council related to this Code include but are not limited to the following:

- (1) Confirm the Mayor's appointments to the memberships of the Planning and Zoning Commission, the Design Review Commission, the Historic Preservation Commission, and the position of Hearing Examiner;
- (2) After receiving a recommendation from the Planning and Zoning Commission or Historic Preservation Commission, hear and decide all legislative matters including but not limited

<sup>854</sup> Current 11-02.

<sup>855</sup> New.

<sup>856</sup> Current 11-02-02.

to Comprehensive Plan Adoption or Amendments, including amendments to the Land Use Map, Code Text Amendments, Annexation of Land, Zoning Map Amendments, Area of Impact provisions, emergency ordinances and moratoriums.

- (3) Hear and decide applications as indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures* and in Sections 11-05-04, *Common Procedures*, 11-05-05, *Specific Procedures*, and 11-05-06, *Nonconformities*; and
- (4) Hear and decide appeals of decisions of the Planning and Zoning Commission, and the Historic Preservation Commission.

#### **B. Membership**

The membership of the Council shall be as set forth in Election of Council Members by Designated Seat in Title 1, Chapter 9 of the Boise City Code.

#### **C. Procedures**

##### **(1) General**

Rules of procedure for the Council are set forth in Title 1, Chapter 6 of the Boise City Code.

##### **(2) Emergency Ordinances**

- (a) If the Council finds that an imminent peril to the public health, safety, or welfare requires adoption of ordinances, or adoption of a moratorium upon the issuance of certain classes of permits, or both, it shall issue a written statement containing the reasons for the adoption. The Council may then proceed to a hearing without recommendation of a commission and upon any abbreviated notice of hearing that it finds practical to adopt the ordinance or moratorium.
- (b) An emergency ordinance or moratorium may remain in effect for no more than 182 days. Restrictions established by an emergency ordinance shall not be imposed for consecutive periods. Further, an intervening period of not less than one year shall exist between an emergency ordinance or moratorium and reinstatement of the same emergency ordinance or moratorium. To sustain restrictions established by an emergency ordinance beyond the 182 day period, the Council must adopt an interim or regular ordinance, following the notice and hearing procedures in Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.<sup>857</sup>

##### **(3) Interim Ordinances**

- (a) If the Council finds that a plan, plan component, or amendment to a City plan is being prepared, it may adopt interim ordinances following the notice and hearing procedures provided in Section 11-05-04.5, *Scheduling and Notice of Public Hearing*. The Council may also adopt an interim moratorium upon the issuance of certain classes of permits if, in addition to the foregoing, the Council finds that an imminent peril to the public health, safety, or welfare requires the adoption of an interim moratorium.
- (b) An interim ordinance shall state a definite period of time, not to exceed one calendar year, during which it shall be in effect. To sustain restrictions established by an

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<sup>857</sup> Wording revised by City Attorneys to include moratoria and to clarify that time limit applies to reinstatement, not an emergency ordinance on a different topic.

interim ordinance, the Council must adopt a regular ordinance, following the notice and hearing procedures provided in Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.

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### 3. Planning and Zoning Commission<sup>858</sup>

#### A. Duties, Jurisdiction, And Authority

For enabling legislation for the Planning and Zoning Commission (PZC) generally, see Title 2 of the Boise City Code. Duties, jurisdiction, and authority of the PZC related to this Code include but are not limited to the following:

- (1) Prepare and recommend approval of a Comprehensive Plan and at least annually review the provisions of the plan and report its findings and recommendations to the Council;
- (2) Review and decide applications as indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures* and in Sections 11-05-04, *Common Procedures* and 11-05-05, *Specific Procedures*;
- (3) As indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures* and in Sections 11-05-04, *Common Procedures* and 11-05-05, *Specific Procedures*, submit to the Council, following a public hearing, a report of findings and a recommendation to approve, approve with conditions, or deny each application;
- (4) Initiate, from time to time, a review of the provisions of this Code, report its findings and recommendations to the Council;
- (5) Petition the Council requesting an amendment of this Code or the Comprehensive Plan, provided that it shall first have held public hearings following the procedures provided in Section 11-05-04.5, *Scheduling and Notice of Public Hearing*; and
- (6) Perform other functions related to the administration of this Code or related regulations authorized by City Council.

#### B. Membership

##### (1) Composition

The PZC shall consist of one person who is, at the time of appointment, under 18 years of age, as a non-voting ex-officio member and in addition, not less than three nor more than 12 voting members, to be appointed by the Mayor and confirmed by the Council.<sup>859</sup> Persons living within the Area of City Impact shall be entitled to representation on the PZC. Such representation shall as nearly as possible reflect the proportion of population living within the area of impact.

##### (2) Term of Office

Appointment to such office shall be for the period of four years. No person shall serve more than two full consecutive terms without specific concurrence by two-thirds of the City Council adopted by motion and recorded in minutes. If a vacancy shall occur during any unexpired term, the Mayor, with the confirmation of the Council, shall appoint a member for the balance of the term.

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<sup>858</sup> Current 11-02-03.

<sup>859</sup> Reference to Mayor as member of PZC deleted in Consolidated Draft for accuracy.

**(3) Chair**

The PZC shall appoint one of its members as Chair of the PZC, who shall hold office as Chair for such term as the PZC shall so designate, and the PZC may elect a Vice-Chair who shall act as Chair in the absence of the Chair of the PZC.

**C. Procedures**

The rules of procedure for the PZC are as set forth in Title 2, Chapter 4 of the Boise City Code and the by-laws adopted by the PZC.

**(1) Compensation**

The members of the PZC shall serve and act without compensation, except that their actual and necessary expenses shall be allowed by the Council and the City shall provide the necessary and suitable equipment and supplies to enable the PZC to properly transact and perform its business.

**(2) Quorum**

A majority of the appointed members of the PZC shall be necessary to constitute a quorum for the transaction of business.

**(3) Meetings and Attendance**

**(a)** The PZC shall meet in regular hearing once per 30 days on the first Monday of the month for at least nine months of the year. The PZC may hold additional hearings following the regular monthly hearing if required by the volume of applications received during the previous cut-off period, and at such other times as may be called by the Chair or by the Mayor.

**(b)** The members of the PZC are expected to attend scheduled meetings. Members may be excused from attendance due to personal illness, family emergency, or out of town business trips. PZC members whose attendance at scheduled meetings falls below 60 percent without cause within any given year may be removed from the PZC by the Mayor with the approval of Council.

**(4) Conflict Of Interest Prohibited**

Members of the PZC shall honor the Code of Ethics within Chapter 1-8 of the Boise City Code and shall not participate in any proceeding or action when the member or their employer, business partner, business associate, or any person related to him by affinity or consanguinity within the second degree has an economic interest in the procedure or action. Any actual or potential interest in any proceeding shall be disclosed at or before any meeting at which the action is being heard or considered.

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**4. Design Review Commission<sup>860</sup>**

**A. Duties, Jurisdiction, And Authority**

The duties, jurisdiction, and authority of the Design Review Commission related to this Code include, but are not limited to the following:

**(1)** Protect property rights and values, enhance important environmental features of the City, and to ensure that the general appearance of buildings and structures along with

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<sup>860</sup> Current 11-02-04. Design Review Committee has been redesignated as Commission. Language stating the DRC is a standing committee of the PZC has been deleted.



development of the land does not impair or preclude the orderly and harmonious development of the community;

- (2) Review all development proposals within the Design Review Overlay Districts or subject to the adopted Citywide Design Standards and Guidelines and the Downtown Design Standards and Guidelines, and as indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures*, Sections 11-05-04, *Common Procedures* and 11-05-05, *Specific Procedures*.<sup>861</sup>
- (3) Develop and recommend to the PZC for Council adoption, special design criteria districts that describe additional requirements relating to bulk and design regulations to be imposed or that establish design standards for specific uses, types of uses, parking standards, streetscapes, or other similar items. Where a special district has been adopted, it shall be designated on the zoning map; and
- (4) Perform other functions related to the administration of this Code or related regulations authorized by City Council.

#### B. Limitations<sup>862</sup>

The DRC is specifically prohibited from requiring reduction in density, reduction in floor area ratio, or other regulations set forth in Table 11-04.2: *Residential District Dimensional Standards* and Table 11-04.3: *Mixed-Use, Industrial, and Open Land and Institutional District Dimensional Standards* that cannot be shown to be required by reason of public safety, health, or destruction or diminution of property values. Unless the proposed structure is determined to be detrimental to health, safety, or adjoining property values, the DRC shall not require reduction in building height or floor area ratio to less than that allowed in the respective zoning district, except as allowed per Section 11-04-03.3, *Residential Small Lots*.

#### C. Membership

##### (1) Composition

The DRC shall be composed of up to eight members. Members of the DRC shall be appointed by the Mayor and confirmed by the Council with due regard to the proper representation of such fields as architecture, landscape architecture, engineering, planning (environmental, urban, and town), and the visual arts. Only one member may reside outside of the city limits and within the Area of Impact. One member may be, at the time of appointment, under 21 years of age. The student member shall be appointed to a term of up to one year and may be reappointed up to two successive terms. The Mayor, in the same manner, shall appoint a member to fill an unexpired term in case of a vacancy.

##### (2) Term Of Office

Members shall each serve for a four year term, with the exception of the PZC representative who shall serve a term of one year or less as defined by the PZC.

##### (3) Chair

The DRC shall appoint one of its members as Chair who shall hold office for a term of office designated by the DRC. The DRC shall elect a Co-Chair to act as the Chair in the absence of the Chair.

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<sup>861</sup> Second sentence was deleted as repetitive.

<sup>862</sup> Relocated appeal provision to the Summary Table of Review and Decision-Making Bodies.

**D. Procedures**

**(1) Quorum**

Four of the eight appointed members of the DRC shall be necessary to constitute a quorum for the transaction of business.

**(2) Meetings**

The DRC shall meet in regular hearing once per 30 days on the second Wednesday of each month. The DRC may hold additional hearings following the regular monthly hearing if required by the volume of applications received during the previous cut-off period, and at such other times as may be called by the Chair or by the Mayor.

**(3) Rules**

The DRC shall adopt rules of procedure as necessary to conduct its duties. The PZC shall approve all rules of procedure that are adopted by the DRC.

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**5. Historic Preservation Commission<sup>863</sup>**

**A. Duties, Jurisdiction, and Authority**

The duties, jurisdiction, and authority of the Historic Preservation Commission (HPC) are as follows:

- (1)** Conduct a survey of local historic properties and landmarks;
- (2)** Recommend acquisition of fee and lesser interest in historic properties and landmarks, including adjacent or associated properties and lands, by purchase, bequest, or donation;
- (3)** Preserve, restore, maintain, and operate historic properties under the ownership or control of the City;
- (4)** Recommend the lease, sale, transfer, or disposition of public historic property subject to the rights of public access and upon such terms and conditions that will ensure the preservation of the property;
- (5)** Recommend contracting with the state or federal governments in the pursuit of the objectives of historic preservation;
- (6)** Cooperate with the federal, state, and local governments in the pursuit of the objectives of historic preservation;
- (7)** Participate in the conduct of land use, urban renewal, and other planning processes undertaken by the City, the County, or any other governmental entity;
- (8)** Recommend ordinances and otherwise provide information for the purposes of historic preservation within the City;
- (9)** Promote and conduct an educational and interpretative program on historic properties within the jurisdiction of the City;
- (10)** After having received prior consent of the owner, occupant, or person in charge, and solely in performance of official duties and only at reasonable times, enter upon private lands for the examination or survey such lands; and
- (11)** Review all development proposals within the HD-O district and as indicated in Table 11-05.1: Summary of Review and Decision-Making Procedures, Sections 11-05-04, *Common Procedures*, and 11-05-05, *Specific Procedures*.

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<sup>863</sup> Current 11-02-05.

**B. Membership**

**(1) Composition**

The HPC shall consist of up to nine members who shall be appointed by the Mayor with the advice and consent of the Council. Members of the HPC shall be appointed with due regard to the proper representation of such fields as history, architecture, urban planning, archeology and law. In addition, one member may be, at the time of appointment, under 21 years of age. One member may reside outside of the City limits and must reside within the Area of City Impact.

**(2) Term of Office**

All appointments shall be for a term of three years, provided that the any member under 21 years of age shall be appointed to a term of up to one year. If a vacancy occurs, the Mayor, with the consent of the Council, shall appoint a member to fill an unexpired term or may be appointed for a full term.

**(3) Chair**

The HPC shall appoint one of its members as Chair of the HPC who shall hold office as Chair for a consecutive period not to exceed two years. The HPC may also appoint a Co-chairman who shall act as the Chair in the absence of the HPC Chair.

**C. Procedures**

**(1) Compensation**

The members of the HPC shall serve without pay but shall be reimbursed by the City for necessary expenses incurred in connection with their duties.

**(2) Quorum**

Five or more members of the HPC shall be necessary to constitute a quorum for the transaction of business.

**(3) Meetings**

The HPC shall meet monthly to review development proposals. A quorum is required for the conduct of HPC business.

**(4) Staff**

The Director shall designate a staff member from the Planning and Development Services Department to serve as the technical staff for the HPC.

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**6. Hearing Examiner<sup>864</sup>**

**Commentary:**

The City of Boise does not currently have an appointed Hearing Examiner, but has had one in the past and is now reinstating that position. A Hearing Examiner is often authorized to hear and decide cases involving relatively minor approvals and appeals that shall not warrant the time and attention of the full Planning and Zoning Commission, or where the decision or appeal is technical in nature.

**A. Duties, Jurisdiction, and Authority**

- (1)** This Section authorizes the PZC to use the services of a Hearing Examiner pursuant to the authority granted in Idaho Code §67-6520 ("the Local Land Use Planning Act").

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<sup>864</sup> Current 11-02-06.

- (2) The Hearing Examiner may conduct hearings on behalf of the PZC on matters as indicated in Table 11-05.1: Summary of Review and Decision-Making Procedures and in Sections 11-05-04, *Common Procedures*, and 11-05-05, *Specific Procedures*.

**B. Qualifications**

A person filling the position of Hearing Examiner shall be experienced in the field of planning and zoning, and shall have legal training and/or experience. The Hearing Examiner shall serve at the pleasure of the Council and shall not be a City staff member.

**C. Procedures**

- (1) The Hearing Examiner shall review all information supplied by the Director prior to any hearing the Hearing Examiner is authorized to conduct.
- (2) The hearing shall be conducted in accordance with Section 11-05-04.5, *Scheduling and Notice of Public Hearing* and applicable state law.
- (3) At the completion of each hearing, the Hearing Examiner shall produce a report that includes a summary of testimony, findings of fact, conclusions of law, and a final order. These materials shall be filed with the Director and shall be available to the applicant and the public no later than ten working days after the close of each hearing.

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**7. Planning Director<sup>865</sup>**

**A. Duties, Jurisdiction, and Authority**

- (1) It shall be the duty of the Planning Director (the "Director") to provide for the administration of this Code and the Comprehensive Plan. The Director shall serve as the technical staff on planning and zoning issues.
- (2) The specific duties and responsibilities of the Director related to this Code shall include, but not be limited to the following:<sup>866</sup>
- (a) Provide and maintain a continuing program of public information on zoning matters and provide planning and zoning assistance to the public as requested;
  - (b) Submit a written report evaluating applications, to the appropriate bodies;
  - (c) Review all development proposals and make those decisions indicated in Table 11-05.1: Summary of Review and Decision-Making Procedures, Sections 11-05-04, *Common Procedures*, and 11-05-05, *Specific Procedures*;
  - (d) Review Building Permit applications for zoning compliance;
  - (e) Provide public notice of hearings;
  - (f) Maintain records and files of all zoning applications;
  - (g) Maintain a zoning enforcement program;
  - (h) Initiate revisions and amendments of this Code and the Comprehensive Plan;
  - (i) Prepare special studies and plans;
  - (j) Make interpretations of the provisions of this Code and the Comprehensive Plan;
  - (k) Coordinate applications with the appropriate City departments and agencies;

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<sup>865</sup> Current 11-02-07. Deleted sentence regarding Planning Director's designees – that information is included in the definition of Planning Director.

<sup>866</sup> Removed "Prepare an annual annexation program."

- (l) Determine the classification of uses not specifically identified in this Code;
- (m) Serve as Floodplain Administrator; and
- (n) Perform other functions related to the administration of this Code or related regulations as directed or authorized by City Council.

**B. Qualifications<sup>867</sup>**

A person filling the position of Planning Director shall be experienced in the field of planning and zoning, and shall have legal training and/or experience. The Director shall serve at the pleasure of the Council.

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**8. Floodplain Administrator<sup>868</sup>**

**A. Duties, Jurisdiction, and Authority**

**(1) Designation**

The Floodplain Administrator shall be that person designated by the City to administer and implement Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards*.

**(2) Duties**

The duties, jurisdiction, and authority of the Floodplain Administrator are as follows:

**(a) Review Applications**

Review all applications for Zoning Map Amendments, Subdivision Plats, and Conditional Use Permits to determine:<sup>869</sup>

- i. If the development is within an Area of Special Flood Hazard;
- ii. That all necessary permits have been obtained from those federal, state, or local governmental agencies from which prior approval is required; and
- iii. Compliance with the provisions of Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards* and disclose to the PZC and Council whether the application is, or is not, in compliance with the provisions of those Sections.

**(b) Interpretations**

- i. Make interpretations of the location of the boundaries of the Floodway and the Floodway Fringe.
- ii. When uncertainty exists as to whether a new development is within an Area of Special Flood Hazard, determine whether development is within the Floodway or Floodway Fringe.

**(c) Zoning Certificates**

Issues Zoning Certificates for those structures that are to be constructed or modified in compliance with the provisions of Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards*.

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<sup>867</sup> New.

<sup>868</sup> Current Section 11-08-07.

<sup>869</sup> Deleted reference to "special use permits."

**(d) Available Data**

Obtain, review, and reasonably use any base flood elevation and floodway data available from a federal, state or other source when such data has not been provided in the Flood Insurance Study.

**(e) Record Keeping**

Compile and maintain in perpetuity for public inspection all records pertaining to the provisions of Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards*, including records of all appeal actions and Variances, records of first floor elevations, flood-proofing certificates, letters of map amendment and all other records required by those sections or by federal regulations.

**(f) Notification**

Notify adjacent jurisdictions and the Idaho Department of Water Resources prior to any alteration or relocation of a watercourse, and submit evidence of such notification to the Federal Insurance Administrator, and require that the flood-carrying capacity of the altered or relocated portion of that watercourse is maintained.

- i. Base Flood Elevations may increase or decrease resulting from physical changes affecting flooding conditions. As soon as practicable, but not later than six months after the date such information becomes available, the Floodplain Administrator shall notify the Federal Insurance Administrator of the changes by submitting technical or scientific data in accordance with Volume 44 Code of Federal Regulations Section 65.3. Such a submission is necessary so that upon confirmation of those physical changes affecting flooding conditions, risk premium rates and floodplain management requirements will be based upon current data.
- ii. Notify the Federal Insurance Administrator in writing of acquisition by means of annexation, incorporation or otherwise, of additional areas of jurisdiction.

**(g) Engineer Certification**

- i. Require that for all new or substantially improved structures in an Area of Special Flood Hazard along the Boise River or in the gulches, a licensed professional engineer or registered land surveyor certify the actual elevation (in relation to mean sea level) of the lowest floor (including basement) of the structure, and record the certified elevation and whether or not the structure contains a basement.
- ii. Require that for all new or substantially improved structures in an Area of Shallow Flooding in an Area of Special Flood Hazard, a licensed professional engineer or registered land surveyor shall certify the actual height in feet, as measured from the building edges at the lowest floor height to the highest ground which surrounds the building and record the certified height and whether or not the structure contains a basement.
- iii. Require that for all new or substantially improved flood-proofed nonresidential structures, a licensed professional engineer or registered land surveyor certify

that the actual elevation (in relation to mean sea level) to which the structure is flood-proofed, and maintain copies of the flood-proofing certificates as required in Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards*.

#### (h) Permit Issuance

Issue Building or Grading Permits for new construction, new development, and substantial improvement to structures that are in compliance with the provisions of Sections 11-02-07.3.C, *FP-O Flood Protection Overlay* and 11-04-05.3, *Flood Hazard Standards*.

#### (i) Corrective Procedures

When the Floodplain Administrator finds violations of applicable state and local laws, it shall be their duty to notify the owner or occupant of the building of the violation. The owner or occupant shall immediately remedy each of the violations of law cited in such notification.

### 9. City Engineer<sup>870</sup>

#### A. Duties, Jurisdiction, and Authority

##### (1) Designation

The City Engineer shall be that person designated by the City to administer and implement the duties of that office.

#### B. Duties, Jurisdiction, and Authority

- (1) The City Engineer shall perform all duties referenced in this Code related to the development or redevelopment of property, either jointly or in consultation with the Planning Director and other City officials, as applicable.
- (2) Upon request from the Planning Director, the City Engineer shall provide technical assistance and information including, but not limited to, verifying field surveys and technical information submitted by any applicant for new development.

### 11-05-04. Common Procedures<sup>871</sup>

#### Commentary:

Although the current Zoning Code uses a similar framework, first establishing common procedures and then applying those to specific procedures, this draft includes revisions to simplify and clarify each of the common procedures. Key changes include:

**Table of Validity.** The current Code includes expiration and extension details within each specific procedure. This draft consolidates all of the lapsing period and a common process for receiving an extension to an approval into one section to increase consistency and predictability.

**Modifications.** This draft introduces a new approach to the modification of approvals after the decision of approval has been made. It establishes and defines Minor Modifications (which can be approved by the Director) and Major Modifications (which require the applicant to return to the decision-making body that

<sup>870</sup> New, incorporating current 11-08-07.2 applied generally.

<sup>871</sup> Current 11-03-03. Existing content has been restructured or clarified where necessary. New content has been footnoted where applicable. Throughout this Section, references to "residents" have been clarified to include "tenants" in order to promote wider notice and engagement for those types of applications where notice is required.

issued the initial approval), and those two procedures are intended to replace several different application-specific modification processes currently scattered throughout the Code. While the provisions of both Minor and Major modifications can be refined to reflect special standards or criteria applicable to specific types of modifications, grouping all of the procedures for modifying existing approvals in one place will significantly improve the user-friendliness of the Code.

**Appeals.** The process to appeal decisions has been revised for clarity, the appeal body for certain review procedures has been updated, and most decisions are limited to one round of appeals. Additional discussion with City Attorney's Office is necessary. In general, this draft provides for one round of appeals for each decision. Decisions made by a City official or an appointed body other than PZC can be appealed to the PZC, but shall not be appealed again to City Council. Decisions for which the PZC is the initial decision-maker can be appealed to Council.

## 1. General<sup>872</sup>

- A. The common review procedures in this Section 11-05-04 provide the foundation for specific review and approval procedures identified in Section 11-05-05, *Specific Procedures*.
- B. Not all common review procedures apply to every development application type. Section 11-05-05, *Specific Procedures* identifies how these common review procedures are applied to specific development application types, and identifies additional procedures and requirements beyond the general review procedures.

## 2. Four Paths for Review and Approval<sup>873</sup>

The City uses four different types of procedures for reviewing and making decisions on applications under this Code.

### A. Type 1

#### (1) Purpose

The purpose of Type 1 procedures is to process simple applications where planning requirements may be reviewed at the time a Building Permit or other ministerial approval is issued.

#### (2) General Procedure

Unless modified by another provision of this Code, Type 1 applications are reviewed and decisions made by the Planning Director or a City official, as described in more detail in Section 11-05-05.1.

### B. Type 2

#### (1) Purpose

The purpose of Type 2 procedures is to process applications for allowed uses, with or without Use-Specific Standards (or Use-Specific Form Standards), and other types of applications where some interdepartmental or interagency collaboration is required, but no review by an appointed body is necessary.

<sup>872</sup> New Section to provide an overview and explanation of the general procedures.

<sup>873</sup> New in Consolidated Draft.



**(2) General Procedure**

Unless modified by another provision of this Code, Type 2 applications are reviewed and decisions made by the Planning Director or a City official after Interdepartmental Review, as described in more detail in Section 11-05-05.2.

**C. Type 3****(1) Purpose**

The purpose of Type 3 procedures is to process applications for Allowed Uses with Alternative Forms, conditional uses, and other complex application that require review and approval by an appointed body.

**(2) General Procedure**

Unless modified by another provision of this Code, Type 3 applications are reviewed and decisions made by an appointed City official or Commission, as described in more detail in Section 11-05-05.3.11-05-05.2

**D. Type 4****(1) Purpose**

The purpose of Type 4 procedures is to process the most complex development applications, changes to the procedures or standards in this Code or the zoning map, and legislative decisions application that require recommendation by an appointed body and action by City Council.

**(2) General Procedure**

Unless modified by another provision of this Code, Type 4 applications are reviewed and decisions made by City Council, as shown in more detail in Section 11-05-05.4.

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**3. Pre-Submittal Activities<sup>874</sup>**

Pre-submittal activities include the Concept Review, Mid-Process Review, and Interdepartmental Review, if any, required for each type of application as shown in Table 11-05.1: *Summary of Review and Decision-Making Procedures*.

**A. Concept Review<sup>875</sup>****(1) Purpose**

The purpose of a Concept Review is to discuss the concept of the proposed development with Planning and Development Services staff on an informal basis to identify the potential alignment of the project with this Code and the Comprehensive Plan, as applicable.

**(2) Applicability**

This procedure applies to all Type 2, 3, and 4 applications under this Code.

**(3) Procedure**

- (a)** When required by Subsection (2) above, the applicant shall request a Concept Review by a written request to the Planning Director or through the City's website.

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<sup>874</sup> Renamed from Pre-Application Process in Consolidated Draft. Pre-submittal activities include the new Concept Review, Mid-Process Review Interdepartmental Review and the Neighborhood Meeting,

<sup>875</sup> New in Consolidated Draft.

- (b) The applicant shall bring to the Concept Review all of that information listed as required on the City's website.

**(4) Effect**

Any information or discussions held at the Concept Review meeting shall not be binding on the City or the applicant. Discussions of potential conditions or commitments to mitigate impacts do not reflect actions by the decision-making body until and unless a decision-making body takes formal action to attach that condition or commitment to an approval.

**(5) Noticing**

No public notice of a Concept Review meeting is required.

**B. Neighborhood Meeting<sup>876</sup>**

**(1) Purpose<sup>877</sup>**

A Neighborhood Meeting is intended to allow residents, businesses, and organizations in the area surrounding a proposed development an early opportunity to learn about the project details and to provide feedback to the applicant before significant funds have been spent on project design and engineering.

**(2) Applicability<sup>878</sup>**

A Neighborhood Meeting shall be required as indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures*, that includes most Type 3 and Type 4 applications. The Planning Director may waive this step for projects that the Director determines have little potential to create material negative impacts on the surrounding neighborhood.

**(3) Procedure<sup>879</sup>**

- (a) When required by Subsection (2) above, the applicant shall hold a meeting allowing the public to review the proposed project only after any required Concept Review meeting with the City has been held.
- (b) A Neighborhood Meeting shall be held no more than six months prior to submission of the application, in a finished, climate-controlled structure near the project site in a venue that is accessible to persons experiencing mobility impairments (e.g. those using wheelchairs or walkers) and vision impairments, Monday through Thursday, excluding holidays, and shall start between 6:00 p.m. and 8:00 p.m.
- (c) A second meeting may be required by the Director if the application could have the potential to create significant impacts.<sup>880</sup> The second meeting may occur before or after application submission but shall follow the noticing procedures of Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.

<sup>876</sup> Carried forward current Section 11-03-03.2 unless otherwise noted.

<sup>877</sup> New.

<sup>878</sup> New Subsection. Waiver language has been clarified.

<sup>879</sup> Renamed from "Timing and Location." Requirement for site within 2 miles of the project replace with requirement that it be near the site, and requirements for accessible venue clarified. References to pre-application meeting deleted and requirement to hold meeting at least 12 days before application submittal deleted.

<sup>880</sup> Examples of possible impacts deleted as unnecessary.

- (d) The Planning Director may, but is not required to, assign a City staff member to attend and/or facilitate the Neighborhood Meeting, based on the Director's determination of the size, complexity, and potential impacts of the development on the surrounding neighborhood.<sup>881</sup>
- (e) The applicant shall bring to the Neighborhood Meeting a general site plan for the proposed development, that does not need to include precise dimensions, but that shall indicate the height and general location of primary and accessory structures on the property, proposed vehicle parking and service areas, and proposed points of pedestrian, bicycle, and vehicular access to the property. The applicant is not required to provide any level of engineering detail for the site or architectural elevations of proposed primary or accessory structures.<sup>882</sup>
- (f) Within 10 days after the Neighborhood Meeting, the applicant shall complete and submit to the City a detailed summary of the meeting presentation and discussion, using a template available on the City's website.<sup>883</sup>

#### (4) Effect

The City will not schedule a Mid-Process Review pursuant to Section 11-05-04.3.C until the detailed summary has been received.<sup>884</sup>

#### (5) Noticing

These provisions apply instead of the standard notification procedures in Section 11-05-04.5, *Scheduling and Notice of Public Hearing*, except that the information required to be included in mailed notices in that Section shall apply. Notice shall be mailed to residents (including tenants) and property owners within 300 feet of the site and to registered Neighborhood Associations whose boundaries include the subject property, at least 10 days prior to the scheduled Neighborhood Meeting. Hand deliveries shall not be used as a substitute for mailed notice.<sup>885</sup>

### C. Mid-Process Review<sup>886</sup>

#### (1) Purpose

The purpose of the Mid-Process Review is for the applicant to discuss with the Planning and Development Services staff the results of the Neighborhood Meeting and to discuss proposed application materials with additional detail.

#### (2) Applicability

A Mid-Process Review is required for all applications shown in Table 11-05.1: *Summary of Review and Decision-Making Procedures* as Type 3 or 4 applications. The Planning Director may waive this step for projects that the Director determines have little potential to create material negative impacts on the surrounding neighborhood. The Director may

<sup>881</sup> New.

<sup>882</sup> New. This information is included in response to several public and staff comments requesting additional detail on this topic. Reference to maximum height replaced by height.

<sup>883</sup> New.

<sup>884</sup> New.

<sup>885</sup> Exception to noticing requirement for Variances was not carried forward.

<sup>886</sup> New.

require a Mid-Process Review for any Type 2 application if the Director determines that the application may create significant impacts on surrounding areas.

### (3) Procedure

- (a) When required by Subsection (2) above, the applicant shall request a Mid-Process Review by a written request to the Director or through the City's website.
- (b) If the application is for a Type 3 or 4 application, the written request shall be submitted within six months after the required Neighborhood Meeting (or the last Neighborhood Meeting, if more than one is held). If the written request is not received within this time, the Director may require that an additional Neighborhood Meeting be held before scheduling a Mid-Process Review.
- (c) The applicant shall bring to the review all draft application materials with at least 50 percent of the detailed information required for a complete application, as determined by the Planning Director.

### (4) Effect

- (a) Based on the results of the Mid-Process Review, the Director shall determine whether an Interdepartmental Review pursuant to Section 11-05-04.3.D is required to address impacts that affect the services or facilities of other City departments or public or quasi-public agencies.
- (b) The City will not schedule an Interdepartmental Review meeting until the Mid-Process Review has been completed and the Director has confirmed that the applicant has presented application materials with the required level of detail.
- (c) If no Interdepartmental Review is required, the applicant may proceed to file a complete application for the proposed project pursuant to Section 11-05-04.4, *Application Submittal and Processing*, below.

### (5) Noticing

No public notice of a Mid-Process Review meeting is required.

## D. Interdepartmental Review<sup>887</sup>

### (1) Purpose

The purpose of an Interdepartmental Review is to allow staff from the Planning and Development Services Department, other City departments and agencies, and other public and quasi-public groups an opportunity to review application materials at a 50 percent level of detail to identify potential issues related to their respective services before the applicant has prepared required application materials at a 100 percent level of detail.

### (2) Applicability

An Interdepartmental Review is required as indicated in Table 11-05.1: *Summary of Review and Decision-Making Procedures*. The Planning Director may waive this step for projects that the Director determines do not have potential material impacts on the services or facilities of other City departments or agencies or other public or quasi-public agencies. The Director may require an Interdepartmental Review for any Type 2

<sup>887</sup> New.

application if the Director determines that the application may create significant impacts on surrounding areas.

**(3) Procedure**

- (a) When required by Subsection (2) above, the applicant shall request an Interdepartmental Review by a written request to the Planning Director. The Director shall determine which departments and agencies' facilities and services are potentially affected by the proposed application and shall schedule the meeting in consultation with those departments and agencies.
- (b) The applicant shall bring to the review all draft application materials with at least 50 percent of the detailed information required for a complete application, as determined by the Director. The applicant may present the same materials discussed with Development and Planning Services staff at the Mid-Process Review or may present revised materials with changes responding to concerns or issues raised at that meeting, provided they contain the required level of detail.
- (c) The representatives of departments and agencies included in the meeting may make recommendations to the applicant as to changes to the application materials or the design of the project needed to comply with their respective standards or requirements when a full application is submitted.
- (d) The Planning Director shall document any recommendations made at the Interdepartmental Review and that document may, at the Director's discretion, be included with the full application materials for referral and consideration by the review and decision-making bodies if and when a full and complete application is submitted to the City.

**(4) Effect**

Following any required Interdepartmental Review, the applicant may proceed to file a complete application for the proposed project pursuant to Section 11-05-04.4, *Application Submittal and Processing*, below.

**(5) Noticing**

No public notice of an Interdepartmental Review meeting is required.

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**4. Application Submittal and Processing<sup>888</sup>**

**A. Application Submittal and Fees<sup>889</sup>**

**(1) Application Requirements**

- (a) Applications shall be submitted on prescribed forms and shall be accompanied by all required supporting documents, as shown on the City's website.
- (b) Additional submittal requirements necessary to evaluate the application may be required, as determined by the Planning Director, based on the size, complexity, or potential impacts of the project on the surrounding neighborhood or the City's transportation system or utility systems.

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<sup>888</sup> The current Conceptual Review process has not been carried forward, but has been replaced by more detailed steps in the application processing text below.

<sup>889</sup> Carried forward current Section 11-03-03.3 unless otherwise noted. Text clarified.

- (c) The Planning Director may waive application submittal requirements if the Director determines that those materials, level or detail are not required to evaluate potential impacts of the proposed development or compliance with the requirements of this Code.<sup>890</sup>

**(2) Application Fees<sup>891</sup>**

The Planning Director shall maintain a list of fees as established by the Council and shown on the City's website, and the applicant shall pay all required application fees to the City in full before an application will be reviewed by the Planning Director or scheduled for a public hearing. No portion of required application fees shall be refunded if an application is abandoned, withdrawn, or denied following.

**(3) Application Resubmittal**

Except as indicated in Section 11-05-05, *Specific Procedures*, no application that has been denied shall be resubmitted in substantially the same form, as determined by the Planning Director, in less than one year unless the reviewing body issuing the denial approves a resubmittal within that time.

**B. Application Processing<sup>892</sup>**

**(1) Completeness Review**

Upon receiving an application, the Planning Director shall determine within 10 days whether the application is complete. A complete application is one that:

- (a) Contains all information and materials required by Subsection A. above;
- (b) Is in the form required by the City's website for submittal of that type of application; and
- (c) Is accompanied by the fee established for the type of application being submitted.

**(2) Incomplete Application**

- (a) Unless a shorter or longer time is established for a specific type of application in this Code, the Planning Director shall notify the applicant of any deficiencies in the application within 15 business days of receiving the application. The applicant may correct the deficiencies and resubmit the application for a determination of completeness until the Director determines the application is complete.
- (b) If the applicant fails to resubmit an application with any additional or corrected materials necessary to make the application complete within 90 calendar days after being notified of submittal deficiencies, the application shall be considered abandoned and no further steps to review the application will be taken by the City.
- (c) No application shall be reviewed for compliance with this Code or scheduled for a public hearing by any review or decision-making body until it is determined to be complete.

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<sup>890</sup> New. This allows the Director to tailor needed levels of detail to the complexity of the project.

<sup>891</sup> Wording revised for clarity. Last sentence is new.

<sup>892</sup> Carried forward current Section 11-03-03.5. Subsections (1)-(3) are new.

**(3) Complete Application**

Upon determining that an application is complete, the Planning Director shall accept the application for review in accordance with the procedures and standards of this Code. The Director is authorized to refer any application to all interested or affected departments and agencies within and outside the City for their review and input.

**(4) Withdrawal of Application<sup>893</sup>**

An application shall be deemed withdrawn and the review terminated if:

- (a)** The applicant requests that the application be withdrawn; or
- (b)** The applicant fails to respond or submit revised plans, reports, or correspondence to the Planning Director for more than 90 days following a request from the Director. The Director may extend the response period for good cause shown by the applicant.

**(5) Application Referrals**

Applications requiring public hearings shall be referred to registered Neighborhood Associations and all political subdivisions providing services to the site, as determined by the Planning Director, including school districts, for review and comment. Application referrals to the registered Neighborhood Association shall be in addition to, and not in lieu of, mailed public hearing notice.

**C. Mediation<sup>894</sup>**

**(1) Applicability**

When a difference arises between or among two or more persons affected by a proposed development that will require an approval by an appointed body or City Council under this Code, the City Council, the PZC, the applicant, or any person affected by the proposed development may request mediation pursuant to Section 67-6510 of the Idaho Code.<sup>895</sup>

**(2) Timing of Mediation Request**

Mediation may occur at any point during the decision-making process or after a final decision has been made. If a mediated resolution is agreed to by the participating parties after a final decision has been made, the revisions resulting from such resolution shall be the subject of a new public hearing before the decision-making body that made the initial decision.

**(3) Written Request Required**

Mediation may be requested by submission of a written request to the Planning Director. An affected person is one having an interest in real property or residing in or doing business in real property that may be adversely affected by the issuance or denial of a permit or approval. The request shall include a statement of concerns and issues and the desired outcome of the mediation.<sup>896</sup>

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<sup>893</sup> New.

<sup>894</sup> Current 11-03-03.11 unless otherwise noted. Materials reorganized and reworded for clarity.

<sup>895</sup> Revised to clarify that this process is not available for administrative decisions, where the only question is compliance with the Code and applicable regulations.

<sup>896</sup> Affected party broadened to include residents and occupants of affected real property.

**(4) Notification of Willingness to Participate**

The Planning Director shall forward the request to the applicant or affected persons on the other side of the issue, as determined by the Director. The notice shall state that these parties have seven days to notify the City as to whether or not they will participate in mediation.

**(5) Tolling of Time Limits**

Upon notice of a request for mediation all time limits related to hearings and appeals are tolled until:<sup>897</sup>

- (a) All parties on one side of an issue decline further participation in the mediation process; or
- (b) No mediation session is scheduled for a period of 28 days from the date the request for mediation is received.

**(6) Participation**

The parties shall participate in at least one mediation session if requested by the PZC or Council. If the applicant or affected person declines to participate in mediation and the Council declines to direct mediation, the mediation process and the tolling of time limits are ended.

**(7) Expenses of Mediation**

The Council shall select and pay the expenses of the Mediator for the first session. Any additional sessions shall be paid for by participating parties.

**(8) Mediation Not Part of the Application Record**

The mediation process shall not be part of the official application or project record, and shall not be disclosed or used in any subsequent City hearings on the application or appeal of a decision on such application.

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**5. Scheduling and Notice of Public Hearing<sup>898</sup>**

**A. Notice<sup>899</sup>**

**(1) Published Notice**

Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that published notice is required, notice of the time and place and a description of the proposal shall be published in the official newspaper of Boise City at least 15 days prior to any required public hearing. Based on the size, complexity, or potential impacts of a proposed application, the Director may require that notice shall be provided to other newspapers, radio, and television stations servicing the city for use as a public service announcement.

**(2) Mailed Notice**

Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that mailed notice is required, notice shall be mailed to the applicant and to property owners,

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<sup>897</sup> First clause revised to replace "if mediation is agreed to".

<sup>898</sup> Provision for additional public notice if PZC recommends a material change before making a recommendation to Council was not carried forward.

<sup>899</sup> Current Section 11-03-04 carried forward unless otherwise noted.



purchasers of record, residents (including tenants), and registered Neighborhood Associations at least 15 days prior to any required public hearing:

- (a) Within the subject property;
- (b) Within 300 feet from the external boundaries of the subject property, unless otherwise noted below:<sup>900</sup>
  - i. For River System Permits, 500 feet upstream and 1,000 feet downstream from the project site;
  - ii. For Comprehensive Plan Amendments, Zoning Map Amendments, Subdivision Plats five acres or greater, and Conditional Use Permits involving property larger than one acre, and development in the PUD zoning district involving properties larger than one acre or on a gateway street, 500 feet;<sup>901</sup>
  - iii. For Certificates of Appropriateness and Reclassifications of Historic Resources, to adjacent property owners and residents and the registered Neighborhood Association; and
  - iv. For Variances, adjacent properties, except that a Variance to increase maximum building height by over 100 feet shall require notice to a distance from the property equal to three times the height of the proposed structure.<sup>902</sup>
- (c) The Director may require that mailed notice also be sent to additional area(s) if the public interest would be better served by expanding the notification area.<sup>903</sup>

**(3) Posted Notice<sup>904</sup>**

**(a) General**

- i. Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that posted notice is required, and when an appeal of a decision is filed, sign(s) regarding the application shall be posted in a conspicuous place on the premises at least 15 days prior to any required public hearing. The applicant shall be responsible for the timely posting of all signs and for the documentation of such postings.
- ii. The Planning Director may require larger sized sign(s) or additional sign(s) if the Director determines that the public interest would be better served by expanding the size or number of required signs.<sup>905</sup>

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<sup>900</sup> Special notice provisions for height exceptions exceeding 100 feet

<sup>901</sup> Updated list of application types to reflect proposed changes in 11-05-05.

<sup>902</sup> Replaces current similar provision for a "height exception" because both General and Special Exceptions have been removed from this Chapter.

<sup>903</sup> Text significantly simplified. Removed "could result in significant adverse traffic, environmental, aesthetic, noise, or pollution impacts, or in population density impacts beyond those shown in the adopted Comprehensive Plan occurring outside the required minimum notice area" and other criteria.

<sup>904</sup> Current details regarding sign size, content, and materials of which signs shall be constructed were included in materials to be relocated to the City's website.

<sup>905</sup> Removed "could result in significant adverse traffic, environmental, aesthetic, noise, or pollution impacts, or in population density impacts beyond those shown in the adopted Comprehensive Plan." Last phrase is new.

**(b) Placement and Quantity<sup>906</sup>**

- i. The notice(s) shall be posted along each street frontage, excluding Interstate 84, adjacent to the subject property boundaries, and shall be oriented perpendicularly to the lot line.
- ii. The base of the notice shall be at least three feet above the ground.
- iii. If the property has street frontage of 1,000 feet or more, a notice shall be placed at each end of that street frontage.
- iv. If the notice(s) cannot be placed on the property and still be clearly visible, the notice(s) may be placed within the public right-of-way with the written consent of the owner of the right-of-way.

**(c) Proof of Posting**

10 days prior to the public hearing, the applicant shall submit to the City a notarized statement and photograph of the posting stating where and when the notice(s) were posted. If the required statement is not received by that date, the hearing will be deferred.

**(d) Removal**

The notice(s) shall be removed no later than three days after the public hearing for which the notice(s) was posted.

**(4) Alternate Forms of Notice**

- (a) When mailed notice is required for 200 or more property owners, purchaser of record, or residents (including tenants), an alternative form of notice may be provided as follows:
  - i. In lieu of mailed notices, two additional newspaper notices as described in Subsection (1), above; and
  - ii. The general area that is the subject of the application may be posted with notice in lieu of posting a separate notice on each lot or parcel included in the application.
- (b) If the Director determines that it is in the public interest to do so, due to the size, complexity, or potential impacts of specific applications or types of applications under this Code, the City may send, or cause to be sent, electronic notices to those residents (including tenants) and property owners in the area surrounding the site that is the subject of the application.<sup>907</sup>

**(5) Notice of Continued Hearing**

At any public hearing, the review body may order the hearing to be continued by publicly announcing the time and place of continuance. No further notice shall be required.

**(6) Adequacy of Notice<sup>908</sup>**

- (a) The City Clerk's and Planning Director's proof of publication, mailing, and posting shall constitute proof of notice.

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<sup>906</sup> Repetitive text was deleted.

<sup>907</sup> New.

<sup>908</sup> Subsection (b) is new.

- (b) If the applicant provides evidence that the required notices were timely provided, then the failure of an intended person or organization to receive actual notice due to changes of address since the latest update to the City real estate records, or due to changes of e-mail addresses since those were last provided to the City, or due to errors in postal delivery or newspaper publishing, or for other reasons beyond the control of applicant or City, shall not be grounds for a delay of application review or public hearings, and shall not be grounds for appeal of the resulting decision.

## B. Public Hearing Procedure and Conduct<sup>909</sup>

### (1) Types of Public Hearings

#### (a) Legislative

Legislative hearings include hearings on amendments to, or enactments of, any ordinance or enactment. They also include revisions or amendments to the Comprehensive Plan or to the text of this Code, or applications to establish a new zoning or overlay district. In legislative hearings, the record is not limited to the record developed by the review body. Any and all new evidence may be received by Council during a legislative hearing regardless of whether the evidence was introduced in prior procedural steps.

#### (b) Quasi-Judicial

Quasi-judicial hearings are hearings in which the review bodies are making decisions on the development of a specific property.

### (2) Timing of Public Hearings

- (a) The date for hearings before any appointed body shall be established by the Planning Director based upon hearing dates as follows:<sup>910</sup>

- i. The application shall be scheduled at the next available hearing.
- ii. The Director may extend the review time for applications based on their size, complexity, or potential impacts of the project on the surrounding neighborhood, or the City's transportation system or utility systems.
- iii. Deferrals due to lack of quorum, lateness of the hour, or a request by the applicant shall extend any required time during which the hearing shall be held, pursuant to Section 11-05-04.5.B(3)(c) *Review Body Deferral Procedure*, below.

- (b) Council hearing dates shall be established at a Council meeting.

### (3) Conduct of Hearings Before Review Bodies

The following provisions govern the conduct of hearings before the Hearing Examiner, the Planning and Zoning Commission (PZC), the Design Review Commission (DRC), and the Historic Preservation Commission (HPC), unless another provision of this Code states an exception to these provisions.

<sup>909</sup> Carried forward current Section 11-03-03.6, except that content related to allotted time during the hearing,

<sup>910</sup> Reference to published cut-off dates was removed as unnecessary.

**(a) Requirements**

**i. Sign-In Roster**

A sign-in roster shall be kept at the entrance to the hearing room for all persons who wish to testify at the hearing on a particular application or issue.

**ii. Recordation**

All proceedings shall be recorded and all material presented shall be maintained by the City. The record shall be made and maintained in a manner such that the hearing record may be transcribed.

**iii. Disclosure and Inquiry**

Review body members shall disclose any comments received or observations they have made, or discussions they have had regarding the application. Disclosure shall be on the record prior to the time for testimony to allow parties of record to address them. Disclosure shall include from whom the comments were received, with whom the person making the comments is affiliated and the nature of the comments, as well as any related documents.

**(b) Review Body Consent Agenda<sup>911</sup>**

**i. Criteria for Consent Agenda<sup>912</sup>**

Routine, uncontested applications may be placed on a consent agenda in accordance with the procedures in this Subsection (b). Based upon a recommendation from the Planning Director, the Chair shall identify all items proposed for the consent agenda at the beginning of the public hearing. Only applications that meet the following criteria shall be considered for the consent agenda:

- A.** There has not been any written or oral opposition to the application.
- B.** The Planning Director and the applicant are in agreement on the findings and conclusions and recommended conditions of approval.
- C.** The application complies with the Comprehensive Plan and this Code as proposed or as it will be modified by conditions of approval.
- D.** The review body has no concerns with the application.

**ii. Opposition to Consent Agenda**

- A.** If there is any opposition from any party or member of the public, regarding an application, or if no one is present to testify, but written testimony was provided, that item shall not be placed on the consent agenda.
- B.** Once the consent agenda is established, the review body may approve all items on the consent agenda with one motion.

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<sup>911</sup> Additional, repetitive content on questions to consider in determining whether to place an item on the consent calendar were not carried forward. The distinction between "criteria" and "considerations" is generally not helpful.

<sup>912</sup> Updated references to planning staff to the Director.

**(c) Review Body Deferral Procedure**

**i. Deferral Allowed**

Applications that have been placed on the review body public hearing agenda may be deferred for no more than 60 days unless the applicant agrees to a longer period.

**ii. Lack of Quorum or Lateness of Hour**

- A.** If the review body makes a specific finding at the public hearing that a limited delay is necessary due to the lack of a quorum or the lateness of the hour, then a delay can be granted to the next scheduled meeting of the review body.
- B.** A request for deferral may be initiated by a member of the review body, the applicant, or the Director.<sup>913</sup>
- C.** Scheduled agenda items shall only be deferred by the review body and only during the public hearing.

**iii. Criteria for Deferral<sup>914</sup>**

Requests for deferral submitted prior to or at the start of the public hearing shall be ruled upon by the review body subject to the following standards:

- A.** The review body shall act on requests for deferral only after soliciting input from the applicant, the Planning Director, and the public attending the hearing.
- B.** If the applicant and the Director are in agreement on the deferral, including the requested length of deferral, and there is no public opposition, the review body shall be deferred to a specific date whenever possible to avoid the need to repeat required public notice.
- C.** If a deferral is granted, any member of the public who cannot or will not return for a deferral hearing shall be provided an opportunity to testify.

**iv. Deferral Process**

**A. Indefinite Deferral Process**

When action on an application has been deferred indefinitely at the applicant's request, the applicant shall pay an additional fee to cover the cost of re-advertising before the application is scheduled for a public hearing. Such fee shall be determined by the Planning Director.

**B. Deferrals for Specific Applications**

Unless the applicant agrees to a deferral, applications for Sexually Oriented Businesses, Religious Institutions, and other forms of expression and activity protected by the First Amendment or similar Idaho state law shall be decided within 45 days following the public hearing. Failure of the Commission to

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<sup>913</sup> Removed the ability for a member of the public attending the hearing to request a deferral.

<sup>914</sup> Replaced "Guidelines" and "Considerations" with "Criteria". Additional, repetitive content on questions to consider in determining whether to place an item on the consent calendar were not carried forward. The distinction between "criteria" and "considerations" is generally not helpful.

decide such application within 45 days following the hearing shall result in its approval.<sup>915</sup>

**(d) Inclusion on Agenda**

An application shall be considered as being on the agenda upon the mailing of radius notices to impacted property owners and residents. Prior to the placement of an application on the public hearing agenda, the applicant may submit a request for rescheduling to the Planning Director. The Director may reschedule the hearing to an appropriate date if the applicant has requested rescheduling or if there are procedural or logistical reasons that justify rescheduling.

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**6. Decision**

**A. Decision<sup>916</sup>**

The decision-making body shall approve, approve with conditions, or deny an application based upon the applicable standards and criteria in this Code. The decision shall be deemed to have been made on the date that the review body adopts a reasoned statement. A decision is final unless appealed.

**(1) Timing of Decision<sup>917</sup>**

**(a) Director or City Official Approval**

Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that the Planning Director or a City official is authorized to make a decisions, the Director or official shall approve, approve with conditions, or deny the application within 15 calendar days of receiving the complete application, and shall notify the applicant, in writing, of the decision and the reasons for modification or denial.

**(b) Appointed Body Approval**

Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that an appointed body is authorized to make a decisions, the appointed body shall take action within 60 days from the date of the initial public hearing unless the applicant agrees to a deferral for a longer period of time, or unless otherwise provided in this Code. The decision of an appeal body is considered to have been made when that body has issued the written reason statement of its decision.<sup>918</sup>

**(c) Optional Referral of Review and Decision to PZC or HPC<sup>919</sup>**

If Table 11-05.1: *Summary of Review and Decision-Making Procedures* authorizes the Planning Director to make a decision, and the Director determines that the application is unusually large or complex or raises potentially unique or serious impacts on the City or the surrounding neighborhoods, the Director:

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<sup>915</sup> Deleted reference to "Bikini Bars" to align with new Table of Allowed Uses. Expanded the list of applicable land uses to meet First Amendment considerations.

<sup>916</sup> Carried forward current Section 11-03-03.7 unless otherwise noted.

<sup>917</sup> Relocated the extended review provisions of 11-03-03.7.A.(3) to the applicable Subsections for Planned Development applications as well as Design Review and Conditional Use Permit applications per staff request.

<sup>918</sup> New. Added as staff's request for additional clarity as to how this time period in current 11-03-03.7(A)(2) is to be measured.

<sup>919</sup> New "bump up" provision that incorporates current similar provision related to staff level historic preservation decisions.

- i. May refer a decision for which the PZC is the appeal body directly to the PZC for an initial decision, in which case a public hearing pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing* shall apply, and the PZC shall make a decision on the application using the criteria that would apply if the Director had made the decision.
- ii. May refer a decision for which the HPC is the appeal body directly to the HPC for an initial decision, in which case a public hearing pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing* shall apply, and the HPC shall make a decision on the application using the criteria that would apply if the Director had made the decision.

#### (d) Extended Review

The Director may extend the review and processing period for large Zoning Map Amendment applications for rezoning to PUD<sup>920</sup> up to 66 days from the date the completed application was received.<sup>921</sup> This extended review period is to allow for adequate staff research and analysis, agency review and comment, coordination with other city departments, and coordination with the applicant.

#### (2) Reason Statement

The approval or denial of an application shall be in writing and accompanied by a statement that explains the applicable criteria and standards, states the relevant facts relied upon, and explains the rationale for the decision based on the applicable provisions of the Comprehensive Plan and this Code, relevant and statutory provisions, pertinent constitutional principles, and factual information contained in the record.<sup>922</sup>

#### (3) General Decision Criteria<sup>923</sup>

##### (a) Decision by Director, City Official, or Hearing Examiner

- i. Where Table 11-05.1: *Summary of Review and Decision-Making Procedures* indicates that the Planning Director, City official, or Hearing Examiner shall make the decision on an application, the Director, City official, or Hearing Examiner shall approve the application, or approve it with conditions, if it complies with the following criteria. The decision shall be based on the evidence submitted with the application, comments from referral agencies, information on file with the Planning and Development Services Department, and any required approvals from other bodies.
  - A. The application complies with all applicable provisions of this Code and other City regulations, as modified by any previously approved Minor Modifications, Major Modifications, or Variances;
  - B. The property is not subject to a pending notice of violation or legal action as a result of a violation of any federal, state, county, or city land use law or administrative rule; and

<sup>920</sup> Revised from reference to Planned Unit Development application based on proposed changes to the PUD procedure.

<sup>921</sup> Revised from "from the date prior the application was submitted" for clarity.

<sup>922</sup> Reference to Code was added to reflect current practice.

<sup>923</sup> Replaces current 11-03-03.7.C. and establishes different review criteria for administrative decisions by the Director.

- C. The property is not subject to a Development Agreement containing any provision that was required to be performed before the date of the subject application and that has not been satisfied.
- ii. Notwithstanding Subsection (i) above, if specific criteria for approval of that type of application are listed in Section 11-05-05, *Specific Procedures* or another section of this Code, the specific criteria listed in Section 11-05-05 or the other section of this Code shall apply.

**(b) Decision by Appointed Body or City Council<sup>924</sup>**

- i. When Table 11-05.1: *Summary of Review and Decision-Making Procedures* or another provision of this Code indicates that an appointed body or City Council under this Code shall make the decision on an application, the appointed body or City Council shall approve the application, or approve it with conditions, if it complies with the following criteria:
  - A. The approval is not in conflict with the policies of the Comprehensive Plan;<sup>925</sup>
  - B. The application complies with all applicable provisions of this Code and other adopted City regulations, as modified by any previously approved Minor Modification, Major Modification, or Variance;
  - C. The application is consistent with any previous development approvals related to the property including but not limited to any Conditional Use Permit;
  - D. The application will not create any material negative impacts on adjacent properties, or any material negative impacts have been mitigated to the maximum extent practicable, or the public benefits of the application outweigh any material negative impacts that cannot be mitigated; and<sup>926</sup>
  - E. The application will promote the efficient use of land, resource, and existing infrastructure.<sup>927</sup>
- ii. Notwithstanding Subsection (i) above, if specific criteria for approval of that type of application are listed in Section 11-05-05, *Specific Procedures* or another section of this Code, the specific criteria listed in Section 11-05-05 or the other section of this Code shall apply.

**(4) Conditions<sup>928</sup>**

- (a) A decision-making body authorized to act under this Code may impose conditions as needed to ensure that the approval is consistent with the purposes of the

<sup>924</sup> Subsections D and E revise current criteria to focus on material negative impacts, and allow approvals based on mitigation or public benefits, as well as promoting efficient use of resources and infrastructure. These criteria flow through and are applicable to almost all Type 3 and Type 4 approvals and are not restated for each of those specific procedures.

<sup>925</sup> Wording on consistency with Comprehensive Plan revised for better alignment with LLUPA.

<sup>926</sup> Additional criteria that the approval not confer a special privilege was not carried over, as more applicable to Variance proceedings, which have their own approval criteria. Criteria revised to provide flexibility to approve applications that create negative impacts if they are mitigated of the public benefits outweigh those impacts.

<sup>927</sup> New.

<sup>928</sup> Subsections (b), (c), and (d) are new.



Comprehensive Plan and the general purpose of this Code stated in Section 11-01-03.

- (b) All conditions of approval shall be reasonably related to the anticipated impacts of the proposed use or development or shall be based upon standards duly adopted by the City prior to the review of an application. Such conditions may include those necessary to carry out the purpose and intent of the Comprehensive Plan and this Code.
- (c) During its consideration, the decision-making body may consider alternative potential conditions, and no discussion of potential conditions shall be deemed an attempt or intent to impose any condition that would violate the federal or state constitutions, statutes, or regulations. Discussions of potential conditions to mitigate impacts do not reflect actions by the decision-making body unless and until the decision-making body takes formal action to attach that condition to a development approval.<sup>929</sup>
- (d) Any conditions that require an applicant to dedicate land or pay money to a public entity in an amount that is not calculated according to a formula applicable to a broad class of applicants shall include an individualized determination and shall be roughly proportional both in nature and extent to the anticipated impacts of the proposed development, as shown through an individualized determination of impacts.<sup>930</sup>

#### (5) Effective Date of Approval

- (a) An approval under this Code documented in any form other than an ordinance shall become final upon the issuance of a written reason statement and after 10 days have elapsed from the date following the written decision, provided however, that such effective date shall be stayed by the filing of an appeal under Section 11-05-04.7.A, *Appeals*.
- (b) Ordinances shall be effective upon publication.

#### (6) Notice of Public Appointed Body and City Council Decisions<sup>931</sup>

The Planning Director shall mail notice to the applicant, registered Neighborhood Associations within which the property is located, and any appellant, within three business days following a decision under this Code. The notice shall indicate:

- (a) The decision, and any conditions attached to any approval;
- (b) Where a reason statement for the decision can be reviewed;
- (c) Whether the decision can be appealed, and if so to what body, and the deadline for filing that appeal; and
- (d) That the property owner can request a taking analysis pursuant to Section 11-05-04.6.C, *Regulatory Takings Analysis*.

<sup>929</sup> New, for compliance with the U.S. Supreme Court's decision in *Koontz v. St. John's River Water Management District*.

<sup>930</sup> New, for compliance with the U.S. Supreme Court's decisions in *Nollan v. California Coastal Commission* and *Dolan v. Tigard*.

<sup>931</sup> Reworded for clarity.

**(7) Reconsiderations of Review Body Decisions<sup>932</sup>****(a) Purpose**

The purpose of this Section is to minimize the number of appeals, prevent new information related to the application from being presented for the first time on appeals, and resolve disputes at the lowest possible level, the decision-making body may reconsider a decision according to the procedure below and applicable provisions of Idaho law.

**(b) Applicability**

- i. This Section applies to any applicant or affected person who intends to seek judicial review of a decision made under this Code. The decision is not considered final, and no application for judicial review of the decision may be filed, until reconsideration of the decision pursuant to this Section has been requested and the provisions below have been completed.
- ii. The 28 day timeframe for filing an application for judicial review is tolled until a written decision upon reconsideration has been made, or until 60 days after the request for reconsideration is filed, whichever occurs first. If a decision upon reconsideration is not made within 60 days after the request for reconsideration is filed, the request for reconsideration is deemed denied.

**(c) Procedure**

- i. A request for reconsideration shall be filed within 14 days after the decision was made, and shall state specific ways in which the decision does not comply with this Code or with applicable provisions of state or federal law.
- ii. The public hearing process for reconsideration shall be the same as that which applied to the initial decision, except that no additional public notice shall be required.
- iii. If the applicant has modified the application, the review body shall determine if the revised application shall be reconsidered or if a new application is required.
- iv. Upon reconsideration, the decision may be affirmed, reversed, or modified to comply with the provisions of this Code or with applicable provisions of state and federal law.
- v. A decision on a reconsideration is not appealable.

**B. Period of Validity<sup>933</sup>****(1) Approvals Run with the Land<sup>934</sup>**

Unless otherwise stated for a specific type of permit, application, or decision under this Code, or unless otherwise stated on the permit or approval document, permits, approvals, and approvals with conditions under this Code run with the land and are not affected by changes in ownership, tenancy, or the form of ownership or tenancy of the property.

<sup>932</sup> Revised to align more closely with Idaho law on reconsiderations. Reorganized content to remove "Purpose" and "Applicability" Subsections for consistency.

<sup>933</sup> Carried forward current Section 11-03-03.10 unless otherwise noted.

<sup>934</sup> New.

Subsequent owners and tenants of the property have the same rights and obligations with respect to the permit, approval, or decision as the initial applicant.

## (2) Period of Validity<sup>935</sup>

Unless otherwise indicated in Section 11-05-05, *Specific Procedures*, the term of an approval shall be as shown in Table 11-05.2 below, unless the property owner or permit holder has taken action to initiate construction of the improvements, initiate the allowed use or activity, modify the property, or take other actions to use the authority granted in that permit or development approval within the period of validity.

| TABLE 11-05.2: PERMIT AND APPROVAL VALIDITY <sup>936</sup>               |   |
|--|---|
| TYPE OF APPROVAL   | PERIOD OF VALIDITY  |
| <b>Type 1 Ministerial Review</b>   |   |
| Home Occupation Permit for Family Daycare Home or Group Daycare Facility | Two years from the date of approval   |
| Home Occupation Permit - Other   | Two years from the date of approval   |
| Sign Permit for On-Premise Sign  | One year from the date of approval  |
| Temporary Sign Permit  | As stated in the Temporary Sign Permit  |
| Temporary Use Permit   | As stated in the Temporary Use Permit   |
| Zoning Permit  | Two years from the date of approval   |
| <b>Type 2 Administrative Decision</b>                                    |   |
| Alternative Sign Plan  | Two years from the date of approval   |
| Certificate of Appropriateness - Minor                                   | Two years from the date of approval   |
| Conditional Use – Minor Expansion  | Two years from the date of approval   |
| Design Review – Minor Projects   | Two years from the date of approval   |
| Fair Housing Reasonable Accommodation                                    | Does not expire as long as the rationale for approval of the Reasonable Accommodation remains valid |
| Floodplain Permit  | Two years from the date of approval   |
| Hillside Development Permit – Category 1 or 2                            | Three years from the date of approval   |
| Nonconformity - Confirmation, Change, or Minor Expansion                 | See Section 11-05-06, <i>Nonconformities</i>  |
| PUD Modification – Minor   | Two years from the date of approval   |
| Record of Survey <sup>937</sup>  | Two years from the date of approval   |
| Residential Small Lot Approval – Minor                                   | Two years from the date of approval   |
| River System Permit - Minor  | Two years from the date of approval   |
| Certificate of Appropriateness - Major                                   | Two years from the date of approval   |
| Special Allowed Use with Allowed Form                                    | Two years from the date of approval   |
| Zoning Certificate   | Two years from the date of approval   |

<sup>935</sup> Table is new to consolidate information on this topic in one place. Consolidates current 11-03-03.10 and all applicable Term of Approval provisions throughout 11-03-04.

<sup>936</sup> Updated in the Consolidated Draft to align with changes made to Summary of Review and Decision-Making Procedures table. Removed text allowing the early termination of a period of validity and replaced with the introductory provision of Subsection (2) for internal consistency.

<sup>937</sup> New, to clarify current practice.

**TABLE 11-05.2: PERMIT AND APPROVAL VALIDITY<sup>936</sup>**

| TYPE OF APPROVAL  | PERIOD OF VALIDITY  |
|---|---|
| <b>Type 3 Decisions by an Appointed Body</b>                  |   |
| Certificate of Appropriateness – Major                        | Two years from the date of approval                               |
| Conditional Use Permit - Initial Approval or Major Expansion  | Two years from the date of approval                               |
| Design Review – Major Projects                                | Two years from the date of approval                               |
| Floodplain Variance   | Two years from the date of approval                               |
| Hillside Development Permit – Category 3                      | Three years from the date of approval.                            |
| Nonconformity - Major Expansion                               | Two years from the date of approval                               |
| PUD Modification – Major                                      | Two years from the date of approval                               |
| Reclassification of Historic Resources                        | Two years from the date of approval                               |
| Residential Small Lot Approval - Major                        | Two years from the date of approval                               |
| River System Permit - Major                                   | Two years from the date of approval, unless otherwise conditioned |
| Sign Permit for Off-Premise Sign                              | One year from the date of approval                                |
| Special Allowed Use with Alternative Form                     | Two years from the date of approval                               |
| Variance  | Two years from the date of approval                               |
| <b>Type 4 Decisions by City Council</b>                       |   |
| Annexation of Land and Related Zoning Map Amendment           | Do not expire   |
| Code Adoption or Amendment                                    | Do not expire   |
| Comprehensive Plan Adoption or Amendment                      | Do not expire   |
| Development Agreement   | See Section 11-05-05.4.D  |
| Major Historic Preservation Actions                           | Do not expire   |
| Street Name Change  | Do not expire   |
| Subdivision Plat – Preliminary, Final, and Vacation           | See Sections 11-05-05.4.G and 11-05-05.4.H                        |
| Zoning Map Amendment (Rezoning, including Planned Development | Do not expire   |

**(3) Extension of Approval Term<sup>938</sup>**

- (a) The property owner or holder of a permit or approval subject to lapsing pursuant to this Section may file with the Planning Director a written request for an extension of the period of validity, provided that the request is received before the expiration of the permit and shows good cause why the permit or approval should be extended. If a request for extension is timely received, the approval expiration time limit shall be suspended between the time of filing and decision for an extension request.<sup>939</sup>

<sup>938</sup> Replaces current provision for two two year extensions for CUPs only. Makes many extensions subject to Director (not PZC) approval.

<sup>939</sup> New provision to codify current practices.

- (b) Provided that each written request is timely received, the Planning Director may approve up to two extensions of a permit or approval, neither of which may exceed one-half of the period of validity of the initial permit or approval, if the Director determines that there is good cause for the extension. Good cause generally requires that the inability to initiate or complete the project for which the permit or approval was given was due to circumstances beyond the control of the property owner or the holder of the permit or approval.
- (c) As an alternative to Subsection (b), the Director may direct that the PZC hold a public hearing to determine whether the permit or approval shall be extended if the Director determines that:
  - i. There have been significant amendments to the Comprehensive Plan or Code that will affect the permit or approval;
  - ii. There have been significant land use changes in the area surrounding the property that would adversely impact the project or be adversely impacted by the project; or
  - iii. There are hazardous situations that have developed or have been discovered in the area.
- (d) If a public hearing on the extension is required, notice shall be provided per Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.
- (e) A new application and fee are required and shall be reviewed for compliance with current plans and ordinances.

### C. Regulatory Takings Analysis<sup>940</sup>

#### (1) Applicability

- (a) Following a final decision on an application, the property owner may request in writing that the City conduct an analysis to determine if the approval, approval with conditions, or denial constitutes a regulatory "taking" of private property in violation of state or federal law.
- (b) The decision is not considered final, and no application for judicial review of the decision may be filed, until reconsideration of the decision pursuant to this Section has been requested and the provisions below have been completed.

#### (2) Procedure

- (a) A request for a regulatory taking analysis shall be submitted to the Planning Director within 28 days from the date of the final decision.
- (b) Upon request, the City shall prepare a written taking analysis of any decision or condition(s) of approval on any site specific development application pursuant to the criteria in Subsection (3) below. The regulatory taking analysis shall become a part of the record related to the application.
- (c) A requested regulatory takings analysis shall be provided to the real property owner within 42 days of the request. During the preparation of a taking analysis, any time limitations related to the application or action shall be tolled.

<sup>940</sup> Carried forward current Section 11-03-03.12 unless otherwise noted. Subsection (1)(b) is new.

- (d) If the analysis concludes that the decision created a regulatory taking of private property in violation of state or federal law, the decision shall be referred to City Council for corrective action to avoid the violation.
- (e) If a regulatory taking analysis is requested by the property owner and is not prepared by the City, the decision for which the analysis was requested is voidable, and the property owner may seek judicial determination of the validity of the governmental action by initiating a declaratory judgment action or other appropriate legal procedure. A suit seeking to invalidate a City action for noncompliance with paragraph (b) of this Subsection shall be filed in a District Court in the county in which the private real property affected by the decision is located.

### (3) Criteria

The City shall use the most current regulatory taking guidelines of the Idaho Attorney General to prepare the takings analysis. The following guidelines are current as of the Effective Date<sup>941</sup>:

- (a) Does the regulation or action result in a permanent or temporary physical occupation of private property?
- (b) Does the regulation or action condition the receipt of a government benefit on a property owner dedicating a portion of property, granting an easement, or expending funds for items unrelated to the impacts of the proposed action?
- (c) Does the regulation deprive the owner of all economically viable uses of the property?
- (d) Does the regulation have a significant impact on the landowner's economic interest?
- (e) Does the regulation deny a fundamental attribute of ownership?

## 7. Post-Decision Actions and Limitations

### A. Appeals<sup>942</sup>

#### (1) Appeal of Administrative Decisions<sup>943</sup>

##### (a) General

- i. Except as noted in Subsection (ii), an affected person may file an appeal for review of an interpretation of this Code made by the Planning Director, or a decision of the Director to abate violations or enforce the provisions of this Code pursuant to Section 11-05-07, *Violations, Enforcement, and Penalties*, or a decision for which Table 11-05.1: *Summary of Review and Decision-Making Procedures* identifies the Director, a City official, the Hearing Examiner, Design

<sup>941</sup> Updated to reflect the March 2020 Idaho Regulatory Takings Act Guidelines from the Idaho Attorney General.

<sup>942</sup> Provisions of current Section 11-03-03.9 significantly revised to limit most decisions to one round of appeals. In general, decisions by the Planning Director or a City official or the DRC or HPC are appealable to PZC, but cannot be further appealed to City Council. Decisions for which PZC is the initial decision-maker may be appealed to City Council. In addition, "persons aggrieved by a decision" has been replaced by "those entitled to receive mailed notice or parties of record."

<sup>943</sup> Separate provisions for appeals of interpretations, administrative design review, and other types of decisions have been consolidated into one process.

Review Commission, or Historic Preservation Commission as the decision-maker.<sup>944</sup>

- ii. Appeals of decisions for which Table 11-05.1: *Summary of Review and Decision-Making Procedures* requires public notice and a public hearing, including any appeal to City Council, may only be filed by a Party of Record or by someone entitled to receive mailed notice for that type of application pursuant to Section 11-05-04.5.A(2), *Mailed Notice*.<sup>945</sup>
- iii. The decision shall be heard by body the listed in Table 11-05.1.

**(b) Grounds for Appeal<sup>946</sup>**

- i. For an appeal of a Design Review decision, the appeal shall list one or more of the following grounds for appeal:<sup>947</sup>
  - A. Unreasonable economic hardship;
  - B. Prevention of an allowed land use;
  - C. Prohibited or unwarranted restriction of building type, material, or method; or
  - D. Conditions not authorized by Section 11-05-04.6.A(4), *Conditions*.
- ii. For appeals of all other administrative decisions, the appeal shall list the section of this Code or applicable state or federal law that has been incorrectly applied or violated and a written description of how they have been incorrectly applied or violated. If the appeal alleges an error in applying floodplain regulations, it shall be supported by technical or scientific evidence.<sup>948</sup>

**(c) Procedure**

- i. The appeal shall be submitted to the Planning Director within 10 days of the decision.<sup>949</sup> The timely filing of an appeal stays further action based on the decision being appealed unless the Director determines that a stay would cause imminent peril to life or property.
- ii. The appeal shall be accompanied by the appeal fee established by City Council and available on the City's website. If the appeal is successful and the decision is reversed or modified, the appeal fee shall be refunded.<sup>950</sup>
- iii. Upon receipt of a timely appeal, the Planning Director shall:
  - A. Schedule the hearing before the appropriate appeal body shown in Table 11-05.1 for the next available public hearing date;

<sup>944</sup> Revised to clarify that decisions regarding enforcement or abatement of violations are included in this provision.

<sup>945</sup> New.

<sup>946</sup> Consolidates separate lists of ground for appeal of general Administrative Decisions, Design Review decisions, and Floodplain decisions. Vague and repetitive ground of undue influence with design integrity of the proposal was not carried forward

<sup>947</sup> Current 11-03-04.12(9)(b). (1) Inconsistency with purpose of the code and prohibition of building, type, material, or method deleted as overly vague. (2) Conditions unacceptable to the owner revised to conditions not authorized by this Code, because the Code now requires all conditions to be related to the impacts of the development.

<sup>948</sup> Current list of examples of evidence was not carried forward, and should appear on the City's website.

<sup>949</sup> Provision allowing the Director to waive the appeal period based on consent of abutting property owners was not carried forward.

<sup>950</sup> New.

- B. Provide notice pursuant to Section 11-05-04.5.A(2), *Mailed Notice* to the appellant, the applicant for the permit, approval, or decision being appealed, any registered Neighborhood Association(s) whose boundaries include the property, property owners and residents within 300 feet of the property, and or otherwise entitled to receive mailed notice for the decision being appealed;<sup>951</sup> and
- C. Transmit the record of the decision, including application materials submitted with the application, to the appeal body shown in Table 11-05.1.
- iv. If more than one appeal is received related to the same interpretation, permit, approval, or decision, the Director shall consolidate them into a single appeal and shall schedule a single public hearing on all appeals.<sup>952</sup>
- v. The appeal shall be conducted pursuant to the Section 11-05-04.5.B, *Public Hearing Procedure and Conduct*.
- vi. The appeal shall be conducted on the record and the appellant shall bear the burden of demonstrating that the decision was in error. Testimony and evidence presented may include materials not included in the application, but shall be limited to matters relevant to those items of error and sections of this Code and applicable state and federal listed in the appeal filing. Testimony based on special administrative or technical expertise shall be weighted accordingly.
- vii. The appeal body may uphold, modify, attach conditions to, or reverse the decision being appealed in order to bring the decision into conformance with this Code or applicable provisions of state or federal law.
- viii. The Planning Director shall mail notice of the appeal body decision to those individuals and organizations entitled to receive notice of the appeal pursuant to Subsection (e) above, and to Parties of Record at the public hearing on the appeal.<sup>953</sup>
- ix. A decision appealed to the PZC or HPC, as listed in Table 11-05.1 shall not be further appealed to City Council, but may be subject by review the District Court pursuant to Idaho law.

## (2) Appeals of Planning and Zoning Commission Decisions

### (a) Applicability

A Party of Record on decision of the PZC on an application for which Table 11-05.1: *Summary of Review and Decision-Making Procedures* shows the PZC as the decision-maker may file an appeal to City Council.

- i. PZC decisions on appeals from decision of the Planning Director, another City official, or the Design Review Commission shall not be appealed to City Council.

<sup>951</sup> Last clause is new, at suggestion of City Attorney's office.

<sup>952</sup> New.

<sup>953</sup> New.



- ii. PZC recommendations to Council shall not be appealed, since Council will consider the application and will consider the PZC recommendation at that time.<sup>954</sup>

**(b) Procedure**

- i. The appeal shall be submitted to the Planning Director within 10 days of the PZC decision.<sup>955</sup> The timely filing of an appeal stays further action based on the decision being appealed unless the Director determines that a stay would cause imminent peril to life or property.
- ii. An appeal of a PZC decision to City Council may only be filed by a Party of Record or a person entitled to receive mailed notice for that type of application pursuant to Section 11-05-04.5.A(2), *Mailed Notice*.
- iii. The appeal shall list the section of this Code or applicable state or federal law that has been incorrectly applied or violated and a written description of how they have been incorrectly applied or violated.
- iv. Upon receipt of a timely appeal, the Planning Director or the City Clerk shall:
  - A. Notify the City Clerk and City Council of the appeal;
  - B. Schedule a public hearing before City Council on the first available date, as determined by Council.
  - C. Provide notice pursuant to Section 11-05-04.5.A(2), *Mailed Notice* to the Parties of Record and the registered Neighborhood Association(s) within whose boundaries the property is located.
  - D. Transmit to City Council the record relating to the decision being appealed, and shall make the record available to the public.
- v. If a Party of Record or a person entitled to receive mailed notice of the PZC public hearing believes that information has been omitted from the administrative record, they shall bring it to the attention of the Planning Director no later than 10 days prior to the date for the appeal hearing. If information has been omitted from the record, the Director shall determine if the information was presented to the review body and, if so, shall include it in the record provided to the Council.
- vi. If more than one appeal is received related to the same interpretation, permit, approval, or decision, the Director shall consolidate them into a single appeal and a single public hearing shall be held to consider all appeals.<sup>956</sup>
- vii. Supplemental documents may be submitted subject to the following:
  - A. The parties to the appeal and the Planning Director may file written arguments (memoranda) regarding the appeal within 14 days after the

<sup>954</sup> Added for clarity.

<sup>955</sup> Provision allowing the Director to waive the appeal period based on consent of abutting property owners was not carried forward.

<sup>956</sup> New.

appeal deadline. For purposes of this Subsection (vii), staff reports to the City Council regarding the appeal are not considered memoranda.

**B.** Replies to memoranda shall be filed within 21 days of the appeal deadline.

**C.** The Council may modify the schedule if the hearing date on the appeal is deferred.

**viii.** Memoranda, responses, and testimony and evidence presented shall not contain new facts or evidence or discuss matters outside the record but shall be limited to matters relevant to those items of error and sections of this Code and applicable state and federal law listed in the appeal filing. Memoranda, responses, and testimony based on special administrative or technical expertise shall be weighted accordingly.

**ix.** The appeal shall be conducted pursuant to the Section 11-05-04.5.B, *Public Hearing Procedure and Conduct*.

**x.** Except as noted in Subsection xi. below, the appeal shall be conducted on the record and the appellant shall bear the burden of demonstrating that the decision was in error.

**xi.** Where an appeal of a decision by the PZC is combined with or related to a decision for which Table 11-05.1 shows City Council as the decision-maker, the City Council may hear the appeal of the lower body's decision de novo.<sup>957</sup>

**xii.** After conducting the public hearing on the appeal, City Council may uphold, modify, attach conditions to, or reverse the decision being appealed in order to bring the decision into conformance with this Code or applicable provisions of state or federal law. If the City Council determines that the procedural steps required by this Code were not followed, the City Council may remand the decision to PZC with instructions to comply with required procedures.<sup>958</sup> The Council shall adopt a written reason statement in support of its decision, based on the grounds for appeal listed in the appeal filing.

**xiii.** A City Council decision to modify, attach conditions to, or reverse a PZC decision shall be based on one or more of the following criteria:

**A.** The decision violates state or federal law.

**B.** The decision exceeds the statutory or delegated authority of PZC.

**C.** The decision was made through procedures that are unlawful or are inconsistent with this Code.

**D.** The decision is not supported by substantial evidence.

**E.** The decision is arbitrary, capricious or an abuse of discretion in that it was made without rational basis, or in disregard of the facts and circumstances presented. Even if the record, memoranda, responses, and testimony would support two different interpretations of what this Code and applicable state

<sup>957</sup> New, at request of City Attorney.

<sup>958</sup> Revised to limit remands to cases of procedural mistakes, at request of City Attorney.

and federal law requires, the action is not arbitrary and capricious if exercised honestly and after due consideration.

- xiv. The Director shall mail notice of the City Council decision and the reason statement to those individuals and organizations entitled to receive notice of the appeal pursuant to Subsection iv above, and to Parties of Record at the public hearing on the appeal.<sup>959</sup>

## **B. Modifications of Approvals<sup>960</sup>**

This Section describes the procedures for modification of existing approvals under this Code.

### **(1) Minor Modifications<sup>961</sup>**

#### **(a) Procedure**

- i. After City approval or approval with conditions of an application under this Code, a property owner or holder of a permit or approval under this Code may apply for a Minor Modification of the permit or approval.
- ii. No Minor Modification may be approved if it would have the effect of reversing a decision on appeal of the initial approval or is inconsistent with a condition attached to the initial approval.<sup>962</sup>
- iii. The Planning Director is authorized to approve, approve with conditions, or deny Minor Modifications and to require the applicant to file and/or record those materials necessary to document the Minor Modification in the City or Ada County records, as applicable.

#### **(b) Permitted Minor Modifications**

##### **i. Conditional Use Permits<sup>963</sup>**

- A. The Planning Director may approve the following types of Minor Modifications:
  - (i) A reduction in development density that does not exceed 25 percent of total units;
  - (ii) A relocation of dwelling units or building pads for some practical reason such as road alignment, topography, access, solar access, or stability in hillside areas;
  - (iii) A change in the phasing plan;
  - (iv) A modification to the recreation area or open space design, but not including elimination or significant reduction;

<sup>959</sup> New.

<sup>960</sup> Replaces current Section 11-03-03.11.

<sup>961</sup> Replaces very specific and/or very vague current minor modification and waiver provisions for CUPs, Design Review, Hillside Development, River System Permits, Development Agreements, Subdivisions, Landscaping, Fencing, and Pressurized irrigation Systems. Current 11-07-05.2.A(6) for landscaping waivers and fencing modification provisions are not included, because they are both included in new Section 11-04-08.11 *Alternative Compliance*.

<sup>962</sup> Second sentence generalizes a current provision applicable to modification of CUPs.

<sup>963</sup> "Similar changes as determined by the Director" was removed from this list to respond to comments about the need to increase the predictability of the modification process.

- (v) An increase or decrease in the proposed setback as long as Code requirements are met;
  - (vi) A change in building elevations; and
  - (vii) Similar changes as determined by the Director.
- B.** Applications for minor expansions of approved conditional uses shall be processed pursuant to Section 11-05-05.2.C, *Conditional Use - Minor Expansion*.

**ii. Design Review Approvals**

The Planning Director may approve the following types of Minor Modifications to Design Review approvals:

- A.** Modifications to previous Minor Design Review approvals;
- B.** Relocation of building pads or dwelling units provided that the modification does not significantly alter the site in terms of parking layouts, vehicular circulation, or landscaping;
- C.** Increase or decrease in a setback as long as Code requirements are met.
- D.** Change in materials, colors, window and door locations, and mechanical units, provided building design remains essentially the same;
- E.** Modification to a recreation area or open space design that does not eliminate or significantly reduce the size of any area shown on the initial approval; and
- F.** A change in landscape design or plant types, minor parking lot revisions, or minor site revisions.

**iii. Planned Unit Developments**

Minor Modifications to approved Planned Units or related Development Plans shall be processed pursuant to Section 11-05-05.2.I.

**iv. Other Approvals Under this Code<sup>964</sup>**

Those modifications that the Planning Director determines are not inconsistent with any standard or requirement in this Code or any condition attached to a prior permit or development for the property, and that are not included in those types of applications for which a Floodplain Variance pursuant to Section 11-05-05.3.D or a Variance pursuant to Section 11-05-05.3.L are required.

**(c) Criteria for Approval<sup>965</sup>**

- i.** The Planning Director may approve a Minor Modification, or approve it with conditions, if the Director determines that the modification is not inconsistent with any standard or requirement in this Code or any condition attached to a prior permit or development for the property, and will not create a material adverse impact on surrounding properties.

<sup>964</sup> New.

<sup>965</sup> New.

- ii. In the event the Director is unclear as to whether a requested Minor Modification is consistent with this Section, the Director may refer the application to the appointed body that granted the initial approval for treatment as a Major Modification.
- iii. The Director's decision as to what qualifies as a Minor Modification, and the Director's decision to refer the application to an appointed body, are not appealable.

**(2) Major Modifications<sup>966</sup>**

- (a) After City approval or approval with conditions of an application under this Code, a property owner or holder of a permit or approval under this Code may apply for a Major Modification of the permit or approval.
- (b) A Major Modification is one that does not meet the definition of a Minor Modification under Subsection (1)(b) above.<sup>967</sup>
- (c) Unless otherwise provided in this Code, an applicant for a Major Modification shall be required to file a new application and follow the same procedure applicable to the initial application that was approved or approved with conditions, and the approval of the change shall be subject to the same criteria applicable to the initial application as applied to the requested modification.
- (d) Major expansions of approved conditional uses are processed pursuant to Section 11-05-05.3.B.
- (e) Major modifications to Planned Unit Developments are processed pursuant to Section 11-05-05.3.G.
- (f) The Director is authorized to waive any application submittal materials that are not required for the decision-making body listed in Table 11-05.1: *Summary of Review and Decision-Making Procedures* to evaluate the impacts of the proposed modification.

**11-05-05. Specific Procedures<sup>968</sup>**

**Commentary:**

This Section describes each of the development review procedures available in Boise. This Section is organized into the following categories of review procedure:

**Organization.** The specific procedures are organized to follow the structure of the Summary Table of Review and Decision-Making Procedures. The current Code generally follows a similar format with the common procedures being listed as applicable or not applicable to a specific procedure, however this draft simplifies that format by only describing the *required* common procedures. Other key changes include:

**New Flowcharts.** The procedural flowcharts have been modernized and significantly simplified. The intent of only showing the major milestone steps of the process (rather than the more detailed approach in the

<sup>966</sup> New. Special provisions for notice of modifications of CUPs were not carried forward. Standard notification procedures apply.

<sup>967</sup> Replaces current very specific lists of Major Modifications for CUPs and Design Review approvals.

<sup>968</sup> Current 11-03-04.

current Code) is to capture the main details an applicant would be interested in (pre-submittal activities, public hearing, and decision-maker) in a quick and easy-to-understand visual.

**Eliminated Exception Processes.** The special exception procedure has been eliminated at staff's request and the general exception procedure has been removed and should be handled through the standard Zoning Map Amendment process instead.

**Consolidated Major Historic Preservation Decisions.** Although the Certificate of Appropriateness and Reclassification of Historic Resources are listed individually in the Administrative Decision section, due to their unique and complex nature, we have consolidated the major historic preservation decisions that require both HPC and City Council approval.

**Planned Unit Development.** This draft introduces a new approach to Planned Unit Developments that moves away from the City's current practice of using PUDs as essentially another form of Conditional Use Permit and into a district-based approach that combines concepts and requirements from the current basic Specific Plan District as well as the current Planned Unit Development procedure, implemented through a formal Zoning Map Amendment.

**Design Review.** In order to make the Design Review process more predictable, this draft includes a starting point for discussion regarding the type and scope of projects that should not be subject to Design Review, should be reviewed administratively, or should be reviewed by the DRC. The criteria for both Minor and Major Design review has been revised for clarity and to ensure objective standards.





## 1. Type 1 Ministerial Decisions<sup>969</sup>

### A. Home Occupation Permit for Family Daycare Home or Group Daycare Facility

#### (1) Applicability

This procedure applies to all applications to establish a Home Occupation Family Day Care Home or a Home Occupation Group Daycare Facility.

#### (2) Procedure

| Home Occupation Permit for Family Daycare Home or Group Daycare Facility            |                    |   |
|---|--------------------|---|
|  | Application Review |  |
|  | Director Decision  |  |

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for Type 1 applications apply unless specifically modified by the provisions of this Section 11-05-05.1.A.

#### (3) Findings for Approval

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including, but not limited to compliance with the standards in

<sup>969</sup> Division of administrative decisions into Type 1 and Type 2 is new.





Sections 11-03-03.6, *Accessory Uses and Structures* and those in Subsection 11-03-03.3.A, *Adult or Child Daycare Uses*

## B. Home Occupation Permit, Other<sup>970</sup>

### (1) Applicability

- (a) This procedure applies to all applications to establish a Home Occupation, Other under this Code.
- (b) Unless the activity is specifically exempted by another provision of this Code, it shall be unlawful to establish a Home Occupation in a residential dwelling without first obtaining a Home Occupation Permit.

### (2) Procedure

| Home Occupation Permit -Other   |                    |   |
|---|--------------------|---|
|  | Application Review |  |
|  | Director Decision  |  |

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for Type 1 applications apply unless specifically modified by the provisions of this Section 11-05-05.1.B.

### (3) Findings for Approval

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including, but not limited to compliance with the standards in Section 11-03-03.6, *Accessory Uses and Structures* and specifically including those in Subsection 11-03-03.6.F, *Home Occupation, Other*.

## C. Sign Permit for On-Premise Sign





### (1) Applicability

- (a) Except as otherwise exempted by Section 11-04-011.4, *Signs Not Requiring a Permit*<sup>971</sup>, it shall be unlawful to erect, construct, enlarge, move, or convert any sign without first obtaining a Sign Permit.
- (b) A Sign Permit shall not be required for a change of copy on a sign, nor for the repainting, cleaning, or other normal maintenance or repair for which a permit has previously been issued provided that the sign or sign structure is not altered in any way.

<sup>970</sup> New, to reflect current practice.

<sup>971</sup> Added a more specific reference to the relevant Section of the Sign Code, rather than a broad reference to the Code.

**(2) Procedure**

| On-Premise Sign Permit  |                    |   |
|---|--------------------|---|
|  | Application Review |  |
|  | Director Decision  |  |

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for Type 1 applications apply unless specifically modified by the provisions of this Section 11-05-05.1.C.





**(3) Findings for Approval**

- (a) The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including, but not limited to compliance with the standards in Section 11-04-011, *Signs*.
- (b) No condition attached to the approval of any Sign Permit shall include any form of content regulation prohibited by state or federal law.<sup>972</sup>

**D. Temporary Sign Permit****(1) Applicability**

Except as otherwise exempted by Section 11-04-011.4, *Signs Not Requiring a Permit*<sup>973</sup>, it shall be unlawful to erect, construct, enlarge, move, or convert any temporary sign without first obtaining a Temporary Sign Permit.

**(2) Procedure**

| Temporary Sign Permit   |                    |   |
|---|--------------------|---|
|  | Application Review |  |
|  | Director Decision  |  |

All applicable provisions of Section 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 1 application shall apply unless specifically modified by the provisions of this Section 11-05-05.1.D.

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including but not limited to compliance with the standards in Section 11-04-011.7.B, *Temporary Signs*.

<sup>972</sup> New; added for clarity.





<sup>973</sup> Added a more specific reference to the relevant Section of the Sign Code, rather than a broad reference to the Code.



**E. Temporary Use Permit<sup>974</sup>****(1) Applicability**

A Temporary Use Permit is required for each use listed as a Temporary Use in Table 11-03.1: *Table of Allowed Uses* or any use with a planned duration of 180 days or less.

**(2) Procedure**

| Temporary Use Permit   |   |
|--|---|
|  Application Review |  |
|  Director Decision  |  |

(a) All applicable provisions of Section 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 1 application shall apply unless specifically modified by the provisions of this Section 11-05-05.1.E.

(b) The Planning Director may require guarantees to assure timely removal of temporary uses and of any debris or refuse, as required to restore the premises to its prior condition if the Director determines there is a material risk of negative impacts on nearby properties or the City if such removal does not occur.<sup>975</sup>

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including but not limited to compliance with the standards in Section 11-03-03.7, *Temporary Uses*.

**F. Zoning Permit<sup>976</sup>****(1) Applicability**

A Zoning Permit is required to approve an application for any of the following:




- (a) Murals;
- (b) Minor exterior commercial building or Multifamily Dwelling changes including but not limited to:
  - i. Addition or removal of a window;
  - ii. Change of exterior building material, such as cement board siding to stucco; or
  - iii. Change in awning type, such as fabric to metal or aluminum;
- (c) Accessory structures over 1,000 square feet in area or over 22 feet in height;
- (d) Commercial fences; and
- (e) Sidewalk Cafes.

<sup>974</sup> Current 11-03-04.10 unless otherwise noted.

<sup>975</sup> "Shall" replaced with "may" and decision criteria added.

<sup>976</sup> New, to reflect current practice. This process is used to ensure that specific type of minor site and development activities have been reviewed by the Director prior to completing or issuing another type of ministerial approval or permit.

**(2) Procedure**

| Zoning Permit   |                    |   |
|---|--------------------|---|
|  | Application Review | ↓   |
|  | Director Decision  |  |

All applicable provisions of Section 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 1 application shall apply unless specifically modified by the provisions of this Section 11-05-05.1.F.








**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*.

**2. Type 2 Administrative Decisions<sup>977</sup>****A. Alternative Sign Plan<sup>978</sup>****(1) Applicability**

This procedure applies to all applications for approval of an Alternative Sign Plan pursuant to Section 11-04-011.8.

**(2) Procedure**

| Alternative Sign Plan   |                            |   |
|---|----------------------------|---|
|  | Concept Review             | ↓   |
|  | Application Review         | ↓   |
|  | Director Decision          |                        |
|  | Appeal to Hearing Examiner |  Public Hearing        |
|   |                            |  = Input Opportunities |

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.A.

**(3) Findings for Approval<sup>979</sup>**

The Planning Director shall approve the application, or approve it with conditions, if:

<sup>977</sup> Throughout this Section, several findings for approval requiring no adverse impacts have been revised to avoid material impacts and to allow the Director to approve those applications that mitigate adverse impacts to the maximum extent practicable.

<sup>978</sup> Renamed from Master Sign Plan.

<sup>979</sup> Findings (b) and (c) are new.

- (a) It complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including but not limited to compliance with the standards in Section 11-04-011.8, *Alternative Sign Plan*;
- (b) It will not create material distractions or confusion that could materially impact traffic safety; and
- (c) It will not materially increase visual clutter when viewed from adjacent streets, parks, open spaces, and Residential zoning districts, or any material impact to visual clutter have been mitigated to the maximum extent practicable.

## **B. Certificate of Appropriateness - Minor<sup>980</sup>**

### **(1) Applicability**

#### **(a) General**

Within any HD-O district, the following provisions shall apply, unless an exception to these provisions is shown in Subsection (b) below;

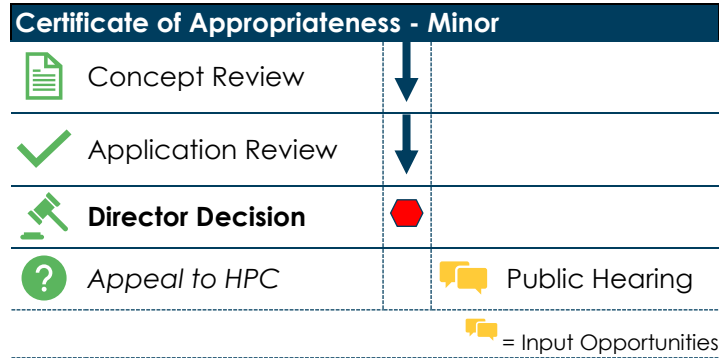
- i. No building, site, structure, or exterior feature of any building, site, structure or object (including, but not limited to, walls, pavement or other appurtenant features), above ground utility structure, or any type of sign shall be erected, altered, restored, moved or demolished within such district until after an application for a Minor or Major Certificate of Appropriateness has been approved by the Director or the HPC.
- ii. A Minor or Major Certificate of Appropriateness shall be required whether or not a Building Permit is required, and before any other application under this Code may be approved for the property in question.
- iii. The Minor Certificate of Appropriateness process shall apply to each activity identified in Subsection i. above that is identified as eligible for review and decision by the Planning Director in the matrix of major and minor historic preservation actions adopted by resolution by the HPC and available on the City's website.

#### **(b) Exceptions**

- i. No Certificate of Appropriateness is required for the following items:
  - A. Interior arrangement of any building or structure; and
  - B. Installation of temporary structures and features that do not remain in existence for more than 45 days in any consecutive 12 month period.
  - C. A site or building improvement that does not require a Certificate in the Certificate of Appropriateness Matrix as adopted by resolution by the HPC and on file in the Planning and Development Services Department.
- ii. If an application that is eligible for review as a Minor Certificate of Appropriateness will also require a Variance, it shall be reviewed as a Major Certificate of Appropriateness.<sup>981</sup>

<sup>980</sup> Revised to better distinguish between major and minor HPC review procedures, which is already current practice.

<sup>981</sup> New, to reflect current practice.

**(2) Procedure**

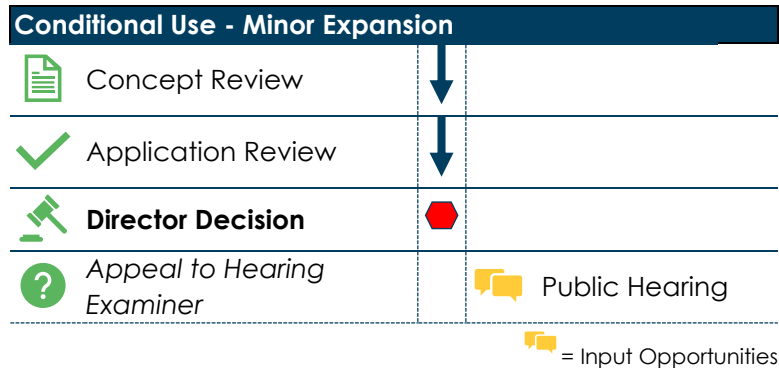
All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.B.

**(3) Findings for Approval<sup>982</sup>**

The Planning Director shall approve, or approve with conditions, the application if the Director, after consideration of the factors listed in Section 11-05-05.3.A(3), *Findings for Approval*, as applicable, determines that the proposed activity will not create a material negative impact on the historic character of the HD-O district in which the property is located, and that any minor impacts have been mitigated to the maximum extent practicable.

**C. Conditional Use - Minor Expansion<sup>983</sup>****(1) Applicability**

This procedure applies to all applications for approval to expand an approved conditional use by less than 20 percent of the approved gross floor area or site area.

**(2) Procedure**

**(b)** All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3

<sup>982</sup> Revised to avoid the need to refer to each item on the lengthy list of Major Certificate of Appropriateness criteria for minor changes to historic structures. "the Director determines that the proposed activity will not create a material negative impact on the historic character of the HD-O in which the property is located."

<sup>983</sup> Current 11-03-04.6 unless otherwise noted.

application apply unless specifically modified by the provisions of this Section 11-05-05.2.C.

- (c) In addition to the Interdepartmental Review that may be required by the Director pursuant to Section 11-05-04.3.D prior to submittal of an application, the Director may require an Interdepartmental Review of the application after the completeness of an application has been confirmed pursuant to Section 11-05-04.4. Any failure of the applicant to make those changes recommended during the initial Interdepartmental Review may be documented and become part of the application record to be considered by applicable review and decision-making bodies shown in Table 11-05.1: *Summary of Review and Decision-Making Procedures*.<sup>984</sup>

### (3) Findings for Approval<sup>985</sup>

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* and with the following criteria:

- (a) The location and design of the proposed use is compatible to other uses in the surrounding area; and
- (b) The proposed expansion will not create any material negative impacts to uses in the surrounding area, or any material negative impacts will be mitigated to the maximum extent practicable.

## D. Design Review - Minor Project<sup>986</sup>

### (1) Applicability

#### (a) General

The following types of applications require Minor Project Design Review approval unless exempted pursuant to Subsection (b) below:

- i. An office or commercial building not exceeding 5,000 square feet gross floor area that is not on a lot abutting a Residential zoning district or residential use.
- ii. An industrial building not exceeding 10,000 square feet gross floor area that is not on a lot abutting a Residential zoning district or residential use.
- iii. A residential Planned Unit Development of less than 50 dwelling units that has been approved by the PZC.
- iv. A nonresidential Planned Unit Development less than two acres in size.
- v. Signs.
- vi. Demolition of structures (excluding uninhabited accessory structures).

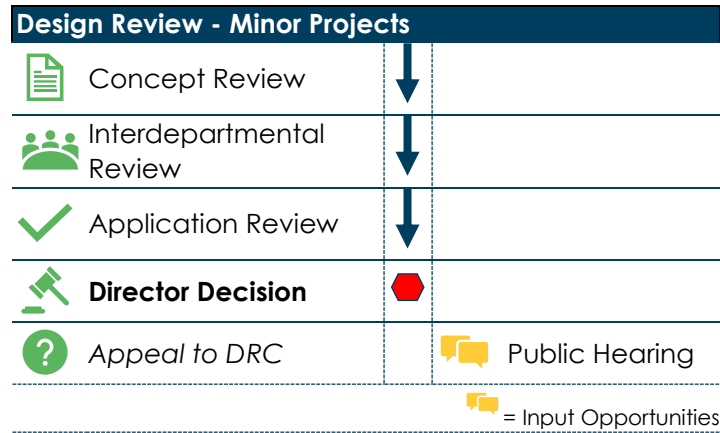
<sup>984</sup> New.

<sup>985</sup> Required findings have been simplified to avoid overlap with the General Decision Criteria for Decisions by an Appointed Body, which include consistency with the Comprehensive Plan and with all Code standards and applicable Design standard and guidelines) and to reflect comments by the City Attorney.

<sup>986</sup> Separate lists for minor design review in Citywide and Downtown design guidelines have been combined to simplify administration. Deleted "Modification to an existing building or site", because modifications to development approvals are now covered in Common Procedures. Deleted "two story residential buildings containing between two and six units, because most of them are now covered by design standards in the Code. Deleted review of single-family residential parking area with more than three spaces as unnecessary and normally addressed by parking and landscaping standards.

**(b) Exceptions**

- i. Single-Family Detached, Single-Family Attached, Duplex, Triplex, and Fourplex Dwellings<sup>987</sup> are exempted from the requirements of this Section, unless they are required to comply pursuant to Section 11-04-03.3, *Residential Small Lots*.
- ii. Freestanding Parking Lots are exempted from the requirements of this Section.<sup>988</sup>
- iii. Installation or modification of the following:<sup>989</sup>
  - A. Awnings and canopies;
  - B. Building additions or accessory buildings less than 200 square feet;
  - C. Patios and decks;
  - D. Roof and fascia changes;
  - E. Window/door modifications;
  - F. Minor landscape or parking lot revisions;
  - G. Minor repairs that do not result in discernable changes; and/or
  - H. Painting.
- (c) Applications that are not required to complete Minor Project or Major Project Design Review are still required to comply with applicable design standards in Section 11-04-09, *Building Design*.

**(2) Procedure**

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.D.

<sup>987</sup> Expanded list of exempting housing types to including single-family attached, duplexes, triplexes, and fourplexes to remove procedural barriers to affordable housing options. All those housing types have design standards in the Use-Specific Standards that will be reviewed as part of a Zoning Certificate or Conditional Use Permit.

<sup>988</sup> New. Freestanding parking lots should be reviewed by staff only for compliance with general development standards, not design standards. Parking lots have been deleted from subsequent lists in Minor Design Review.

<sup>989</sup> Replaces current vague text on minor modifications to existing buildings.








**(3) Findings for Approval**

- (a) The Planning Director shall approve, or approve with conditions, the application if it complies with the criteria listed in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*.
- (b) The Director may determine whether an approval or approval with conditions may be attached to a required Zoning Certificate rather than a separate approval document.<sup>990</sup>

**E. Fair Housing Reasonable Accommodation<sup>991</sup>****(1) Applicability**

This procedure shall apply to each request to deviate from the standards in this Code to provide Reasonable Accommodation for a person experiencing disabilities as defined in the federal Fair Housing Amendments Act, as amended and interpreted by the courts.

**(2) Procedure**

| Fair Housing Reasonable Accommodation  |   |  |
|--|---|--|
|  Concept Review               | ↓   |  |
|  Application Review           | ↓   |  |
|  <b>Director Decision</b>     |  |  |
|  Appeal to Hearing Examiner |   |  Public Hearing |
|  = Input Opportunities      |   |  |

All applicable provisions of Section 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.E.

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if the Director, after consultation with the City Attorney, determines that approval of the Fair Housing Reasonable Accommodation is required to comply with the provisions of the federal Fair Housing Amendments Act.

**F. Floodplain Permit****(1) Applicability**

- (a) A Floodplain Permit is required for all development within the Flood Protection Overlay district (FD-O) as described in Section 11-02-07.3.C(1)(c), *Applicability*.<sup>992</sup>
- (b) Compliance with the standards in this Code shall not relieve any person of the independent obligation to comply with all applicable standards and practices

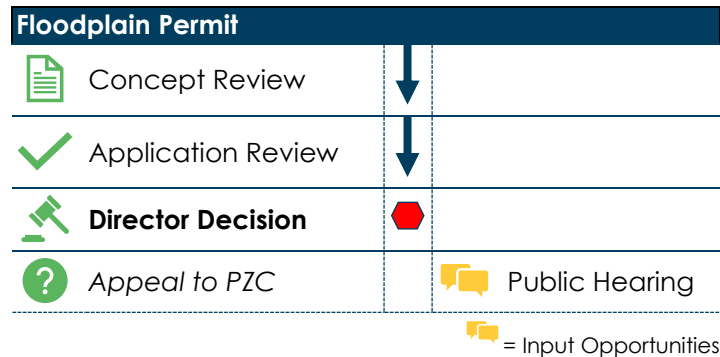
<sup>990</sup> Simplifies current text that some specific types of Minor Design Reviews may be approved through Zoning Certificates.

<sup>991</sup> New.

<sup>992</sup> Deleted "in all Areas of Special Flood Hazard, within the jurisdiction of Boise City, and as such lands are identified, within the Floodway, Floodway Fringe, or the Area of Shallow Flooding" and replaced with general reference to the FP-O district.

established in federal and state law and all other applicable rules, regulations, standards and specifications of the City regarding development within a floodplain.<sup>993</sup>

## (2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.F.
- (b) The application shall be processed concurrently with other related development applications for the same project.

## (3) Findings for Approval

The Planning Director shall approve the application, or approve it with conditions, after consultation with the Floodplain Administrator, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including but not limited to compliance with the standards in Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.

## G. Hillside Development Permit - Categories 1 and 2<sup>994</sup>

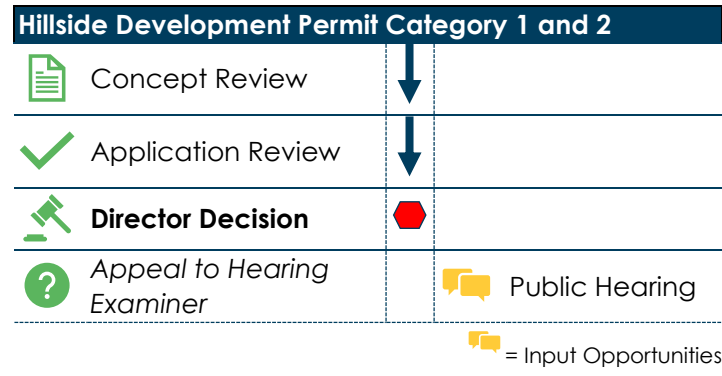
### (1) Applicability

- (a) A Hillside Development Permit is required for any development proposal for properties when any topographical slope exceeds 15 percent or where adverse conditions associated with slope stability, expansion soils, high water table and springs, erosion or sedimentation are present as determined by the Director or City Engineer.
- (b) A Category 1 Hillside Development Permit is required for those projects defined in Section 11-02-07.3.D(3)(a).
- (c) A Category 2 Hillside Development Permit is required for those projects defined in Section 11-02-07.3.D(3)(b).

<sup>993</sup> New.

<sup>994</sup> Current 11-03-04.17 unless otherwise noted. Applicability of these standards simplified after discussion with staff. Retitled without reference to Foothills because intent is for foothills development standard to be reviewed by staff using the Foothills development standards without the need for a separate permit. Special provisions for extending or modifying this type of permit were not carried forward; standard extension and modification provisions apply.



**(2) Procedure<sup>995</sup>**

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.G.
- (b) A Category 1 Hillside Development Permit shall be processed as part of the Building Permit application.
- (c) A Category 2 Hillside Development Permit shall be processed together with the development application to which it relates.
- (d) A meeting with the Public Works Department shall be held approximately 33 days after acceptance of application.

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the following criteria:

- (a) The proposed development complies with the technical requirements of Sections 11-02-07.3.D, *HS-O: Hillside Development Overlay* and 11-04-05.6, *Foothills Development Standards* if applicable including those related to grading, drainage, hazardous areas, revegetation, preservation of outstanding and unique features; and<sup>996</sup>
- (b) If located in the FP-O district, the proposed development complies with all requirements of Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.<sup>997</sup>

**H. Nonconformity - Confirmation, Change, or Minor Expansion<sup>998</sup>****(1) Applicability**

- (a) This Section applies to:
  - i. All applications by a property owner to confirm the nonconforming status of an existing use or building;

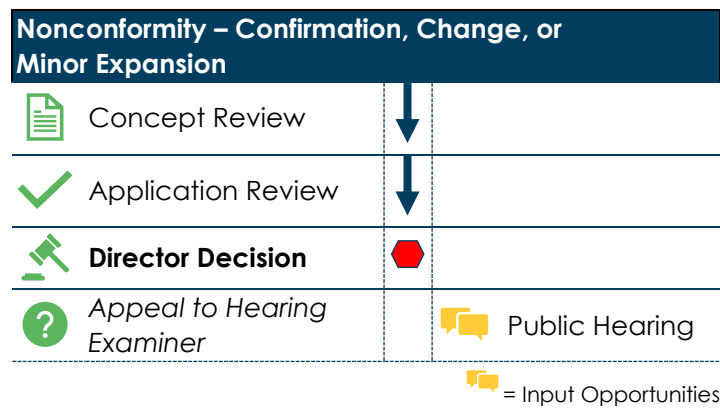
<sup>995</sup> References to the Conceptual Review were not carried forward. Deleted provision requiring application referral and report because it is now covered in the Scheduling and Notice of Public Hearing and Application Submittal and Processing Sections.

<sup>996</sup> Updated references to Hillside Development Overlay and Foothills Development Standards. Criteria requiring discretion were not carried forward for Category 1 and 2 permits.

<sup>997</sup> Deleted reference to gulches.

<sup>998</sup> Current 11-03-04.8 or Current 11-11-06, unless otherwise noted. Wording revised for clarity.

- ii. All applications by a property owner to expand a nonconforming use or building by less than 20 percent of the areas occupied at the time the use became nonconforming;<sup>999</sup>
  - iii. All applications by a property owner to change a nonconforming use to a different nonconforming use; and
  - iv. All requests by the Planning Director to have a property owner provide evidence of the nonconforming status an existing use.
- (b) Applications for an expansion of a nonconforming use or building by 20 percent or more shall be subject to the standards set forth in Section 11-05-05.3.F, *Nonconformity - Major Expansion*.

**(2) Procedure**

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04 *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.H.
- (b) Regardless of whether the property owner or the Planning Director has requested confirmation of the nonconforming status of a property, the property owner shall be required to provide evidence of the date on which the parcel, structure, use, sign, or site feature was first created or established. Evidence may include but is not limited to utility records, photographs, assessor's records, rental receipts, phone directories, notarized statements, and Polk Directories.
- (c) The property owner shall bear the burden of providing such evidence and shall submit it within 90 days of the Director's written notice.
- (d) If the Director determines that the nonconforming status has been demonstrated by the property owner, the Director shall issue a Zoning Certificate documenting the nonconforming status.
- (e) If the property owner does not provide evidence within the required time period, or the Director determines that the evidence presented does not demonstrate nonconforming status of the parcel, structure, use, sign, or site feature, the Director

<sup>999</sup> Revised to apply to nonconforming buildings as well as uses, in order to promote continued use of existing structures.

shall mail the property owner a notice that the property does not have nonconforming status. The notice may also identify what portions or aspects of the property may be violations of this Code and what is required to bring the property into compliance with this Code.<sup>1000</sup>

### (3) Findings for Approval<sup>1001</sup>

- (a) The Planning Director shall approve or approve with conditions the application for confirmation of a nonconforming use or building if the Director determines that the use or building that is the subject of the application was legal when the use was begun or the building was constructed, and has become nonconforming since that time due to the actions of a government agency, including but not limited to an amendment to this Code or another government regulation, and not due to the actions of the current or prior owner of the property.
- (b) The Director shall approve or approve with conditions a change of a nonconforming use to different nonconforming use if it the new use:
  - i. Will not violate a policy of the Comprehensive Plan;
  - ii. Will not unduly burden transportation or service facilities in the vicinity and does not adversely impact the delivery of services by any political subdivision providing services;<sup>1002</sup>
  - iii. Will not result in material adverse impacts to surrounding properties; or that any deviation from those criteria has been mitigated to the maximum extent practicable; and
  - iv. Will be no greater in intensity, impacts, and demand for services than the existing nonconforming use.
- (c) The Director shall approve or approve with conditions an expansion of a nonconforming use or building by up to 20 percent beyond the area of the building or parcel occupied by the nonconforming use or the building on the date it became nonconforming, if: <sup>1003</sup>
  - i. The expansion will not violate a policy of the Comprehensive Plan;
  - ii. The expansion will not unduly burden transportation or service facilities in the vicinity and does not adversely impact the delivery of services by any political subdivision providing services;<sup>1004</sup>
  - iii. The expansion will not result in material adverse impacts to surrounding properties or that any deviation from those criteria has been mitigated to the maximum extent practicable; and

<sup>1000</sup> New.

<sup>1001</sup> New.

<sup>1002</sup> Last clause added for internal consistency.

<sup>1003</sup> Text requiring no greater impacts on public service was not carried forward as inconsistent with an expansion.

<sup>1004</sup> Last clause added for internal consistency.

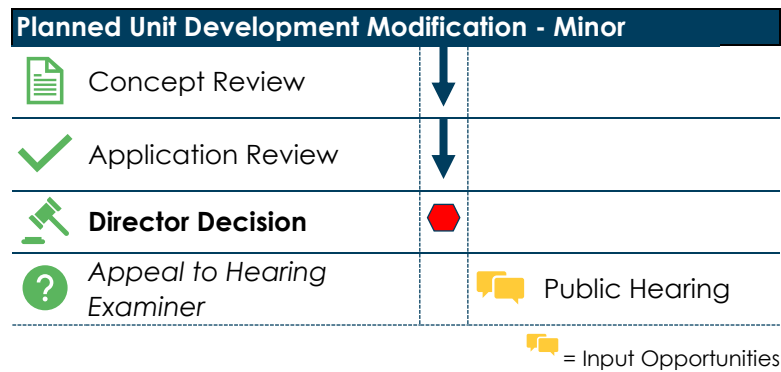
- iv. Any expansion of a nonconforming building will not increase the degree of nonconformity of that part of the building that does not meet the provisions of this Code.<sup>1005</sup>

**I. Planned Unit Development Modification - Minor<sup>1006</sup>**

**(1) Applicability<sup>1007</sup>**

This Section applies to applications for modifications to approved Planned Unit Developments that the Director determines could be approved as a Minor Project Design Review application pursuant to Section 11-05-05.2.D or a Zoning Certificate pursuant to Section 11-05-05.2.L if the property was located in a base zoning district and/or overlay district rather than a Planned Unit Development.

**(2) Procedure**



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-0411-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.I.

**(3) Findings for Approval<sup>1008</sup>**

The Planning Director shall approve, or approve with conditions, the application if it complies with the required Findings for Approval for a Minor Project Design Review in Section 11-05-05.2.D(2) or for a Zoning Certificate in Section 11-05-05.2.N(3), as applicable to the proposed modification.

**J. Record of Survey<sup>1009</sup>**

**(1) Applicability**

A Record of Survey is required for the following:

- (a) A division of any original tract into up to four parcels that comply with Code requirements ('Minor Land Division');
- (b) A property line adjustment that establishes or modifies the boundaries of buildable parcels with boundaries that differ from existing buildable parcels and/or buildable lot boundaries (Property Line Adjustment);

<sup>1005</sup> New.

<sup>1006</sup> New.

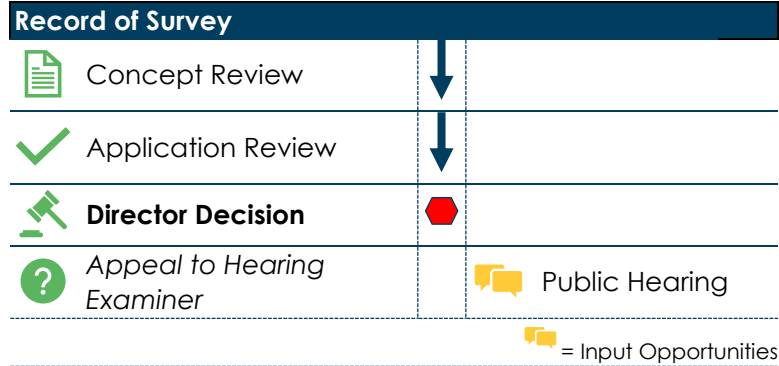
<sup>1007</sup> New.

<sup>1008</sup> New.

<sup>1009</sup> Current 11-03-04.5. unless otherwise noted.

- (c) The consolidation of two or more existing, contiguous buildable parcels into one buildable parcel ('Parcel Consolidation'); and
- (d) The creation of Condominium units.<sup>1010</sup>

## (2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.J.
- (b) Evidence of recordation of a notice of buildable parcel with the City Clerk and Ada County Recorder is required before a Building Permit may be issued.

## (3) Findings for Approval

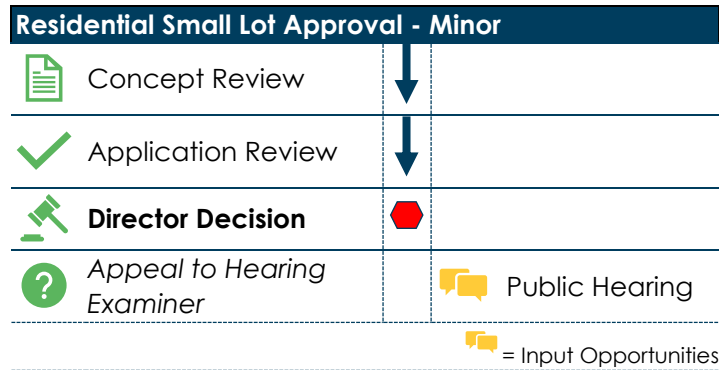
The Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including, but not limited to, the applicable standards set forth in Section 11-04-04.3, *Records of Survey*.

## K. Residential Small Lot Approval - Minor

### (1) Applicability

This procedure applies to all applications subject to the Residential Small Lot standards in Section 11-04-03.3 that contain four or fewer dwelling units on up to four contiguous Small Lots.

<sup>1010</sup> New. Condominium plats are currently processed as full subdivisions,

**(2) Procedure**

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.K.

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner*, including but not limited to the applicable standards set forth in Section 11-04-03.3, *Residential Small Lots*.

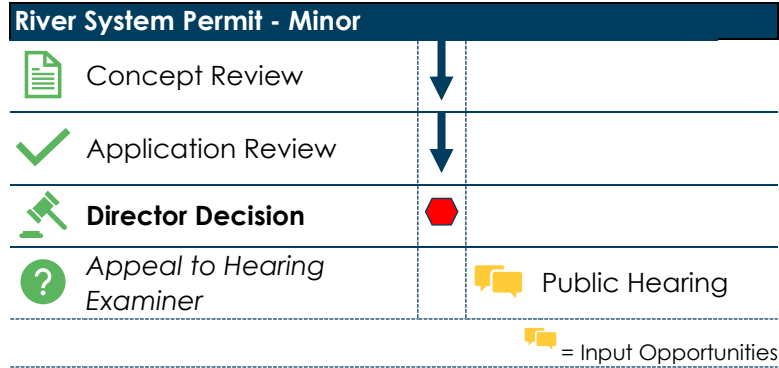
**L. River System Permit - Minor<sup>1011</sup>****(1) Applicability**

A Minor River System Permit is required for all lands and waters and all aquatic, wetland, riparian and upland environments within the jurisdiction of Boise City that lie:

- (a) Within the 100 year Floodplain boundaries adjacent to the Boise River;
- (b) Within the Setback Lands and Waters as described in Section 11-02-07.3.B(6), *Setbacks*; or
- (c) Within Class A, Class B and Class C areas as described in Section 11-02-07.3.B(5), *A, B, And C Lands and Waters Classifications*; and that
- (d) Do not affect more than 100 lineal feet of river bottom or bank, nor more than one-half acre of Class A or B lands;
- (e) Do not materially alter, fully restores, or enhances the existing surface and groundwater hydrology, soils, plant and animal communities and habitats present within or adjacent to the project; and
- (f) Provide for the maintenance of storm water detention/sedimentation basins and stabilization structures.

<sup>1011</sup> Current 11-03-04.19 unless otherwise noted.

## (2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.2.L.
- (b) In addition to that Interdepartmental Review that may be required by the Director pursuant to Section 11-05-04.3.D prior to submittal of an application, the Director may require an Interdepartmental Review of the application after the completeness of an application has been confirmed pursuant to Section 11-05-04.4.<sup>1012</sup>
- (c) The application shall be reviewed concurrently with all other applications required for approval of the specific development proposed for the property.

## (3) Findings for Approval

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* and with the following criteria:









- (a) The proposed development complies with the applicable standards for Uses in Class A, B or C lands and waters in Section 11-02-07.3.B(5), *A, B, And C Lands and Waters Classifications*.
- (b) The proposed development complies with all standards in Section 11-02-07.3.C, *FP-O Flood Protection Overlay* applicable to the property,
- (c) The proposed development complies with all the policies and standards of the Comprehensive Plan and the Boise River Plan.
- (d) The proposed development includes measures designed to ensure that natural resources functions and values are preserved or enhanced and maintained.
- (e) The proposed development complies with all local, State and Federal laws and regulations.

<sup>1012</sup> New.

**M. Special Allowed Use With Allowed Form<sup>1013</sup>****(1) Applicability**

This procedure applies to all applications for a Special Allowed Use, as shown in Table 11-03.1: *Table of Allowed Uses* that meets all applicable Use-Specific Form Standards and therefore has an Allowed Form applicable to the Special Allowed Use.

**(2) Procedure**

| Special Allowed Use with Allowed Form  |   |  |
|--|---|--|
|  Concept Review           | ↓   |  |
|  Interdepartmental Review | ↓   |  |
|  Application Review       | ↓   |  |
|  <b>Director Decision</b> |  |  |
|  Appeal to DRC            |   |  Public Hearing |
|  = Input Opportunities    |   |  |

All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.2.M.

**(3) Findings for Approval**

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* including but not limited to the applicable Use-Specific Standards for that use, and specifically including those Use-Specific Form Standards (the Allowed Form) applicable to the Special Allowed Use in the zoning district in which it is located.

**N. Zoning Certificate<sup>1014</sup>****(1) Applicability**

(a) A Zoning Certificate is required for any use that:

- i. Does not require a Conditional Use Permit or Design Review approval;
- ii. Is not listed separately as a Type 2 application; and
- iii. Only requires review by the Planning Director to confirm compliance with the applicable standards of this Code. This category includes but is not limited to applications for approval of an Accessory Dwelling Unit, a Duplex, Triplex, or Fourplex Dwelling, or an Adult or Child Day Care Facility.

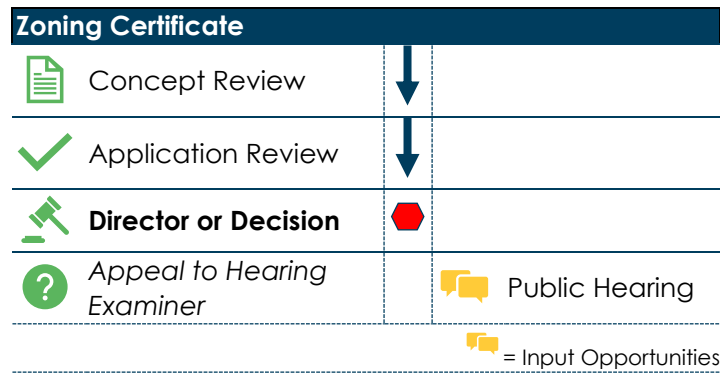
<sup>1013</sup> New.

<sup>1014</sup> Replaces current 11-03-04.11. This section has been updated to better clarify the purpose of Zoning Certificate and set forth the general procedure that several existing application types (ADUs, Duplex, Triplex, Fourplex, and Adult or Child Day Care Facility),. Although these use-specific approval procedures are currently treated as separate types of approval, those differences are now reflected in the differing Use-Specific Standards for each use, while the approval process for each is the same.



- (b) A Zoning Certificate is also required prior to demolition of the following:
- i. Any primary structure containing a primary Multifamily Dwelling or a Public, Institutional, and Civic, Commercial, or Industrial use as described in Table 11-03.1: *Table of Allowed Uses*.<sup>1015</sup>
  - ii. Any non-accessory residential structure completed more than 50 years ago.
- (c) Any request for demolition addressed in Subsection (b) above that is not accompanied by an application for a replacement structure shall be reviewed for consistency with the Comprehensive Plan and compliance with the applicable Sections of Chapter 11-04, *Development and Design Standards*.

(2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 2 application apply unless specifically modified by the provisions of this Section 11-05-05.2.N.
- (b) For those applications that require Minor Project Design Review pursuant to Section 11-05-05.2.C, a separate application for Design Review shall not be required and compliance with the applicable Design Review standards shall be reviewed as a part of the Zoning Certificate.
- (c) For applications for an Accessory Dwelling Unit, Duplex, Triplex, or Fourplex Dwelling, or an accessory Adult or Child Daycare Facility in a Residential zoning district, the applicant is required to notify adjacent property owners and occupants, including across streets and alleys, of the proposed development. Proof of notification may be submitted in written form with signatures or by certified mail.
- (d) The Planning Director shall provide notice of approval to the registered Neighborhood Association for approved demolitions.

(3) Findings for Approval

The Planning Director shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* and:

<sup>1015</sup> Triplex and Fourplex dwellings are no longer included in the term "Multifamily Dwelling" as they are intended to be treated the same as Single-Family Detached dwellings to increase housing options in the City.

- (a) All applicable Minor Project Review Design criteria set forth in Section 11-05-05.2.D(3) have been met; and
- (b) If the application is for a Multifamily Dwelling, Adult or Child Day Care uses, School, or Manufactured Home Community, and the Planning Director determines that it is necessary to protect the public health and safety, all irrigation ditches, laterals and canals crossing, intersecting and lying adjacent, or contiguous to, such uses shall be covered or fenced.<sup>1016</sup>

### 3. Type 3 Decisions by an Appointed Body<sup>1017</sup>

#### A. Certificate of Appropriateness, Major<sup>1018</sup>

##### (1) Applicability<sup>1019</sup>

##### (a) General

Within any HD-O district, the following provisions shall apply, unless an exception to these provisions is shown in Subsection (b) below.

- i. No building, site, structure, or exterior feature of any building, site, structure or object (including, but not limited to, walls, pavement or other appurtenant features), above ground utility structure, or any type of sign shall be erected, altered, restored, moved or demolished within such district until after an application for a Minor or Major Certificate of Appropriateness has been approved by the Director or the HPC.
- ii. A Minor or Major Certificate of Appropriateness shall be required whether or not a Building Permit is required, and before any other application under this Code may be approved for the property in question.
- iii. The Minor Certificate of Appropriateness process shall apply to each activity identified in Subsection i above that is identified as eligible for review and decision by the Director in that matrix of major and minor historic preservation actions adopted by resolution by the HPC and available on the City's website.

##### (b) Exceptions

- i. No Certificate of Appropriateness is required for the following items:
  - A. Interior arrangement of any building or structure; and

<sup>1016</sup> Provision for waiver of this requirement by PZC or Council were not carried over.

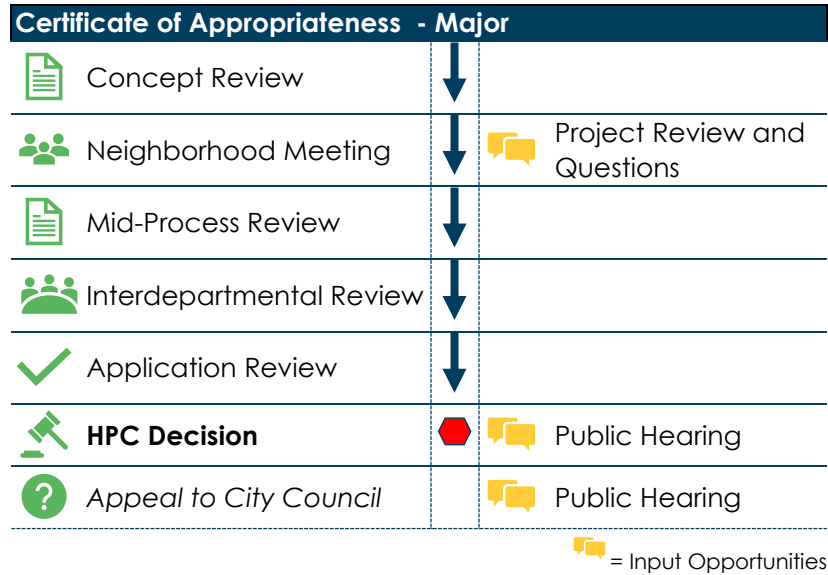
<sup>1017</sup> The Planned Unit Development procedure has been deleted. A new Planned Unit Development district is proposed to replace the City's current approach to PUDs that mirrors the Conditional Use Permits. In order to reduce the City's reliance on PUDs and reserve them for larger or more complex projects that deviate significantly from underlying zoning district standards, raise unusual/complex compatibility issues, and usually require significant additional amenities or open spaces to mitigate their impacts, this draft requires a Zoning Map Amendment and associated Development Plan. Reference the Zoning Map Amendment procedure for additional details. Throughout this Section, several findings for approval requiring no adverse impacts have been revised to avoid material impacts and to allow the appointed body to approve those applications that mitigate adverse impacts to the maximum extent practicable or to determine that the public benefits of the project outweigh any impacts that have not been mitigated.

<sup>1018</sup> Current 11-03-04.20 unless otherwise noted. All references to "the Commission" revised to be "the HPC" (defined in Chapter 11-06). Because some types of minor approvals are delegated by the HPC to the Director, this Section now makes that distinction based on whether the application relates to an administrative decision or a decision by an appointed body. All instances of "the Commission" have been replaced with "the HPC." All instances of "historic district – residential" have been replaced with "Residential Historic District."

<sup>1019</sup> Consolidated current 11-03-04.20(1)(a), (2), and (3).

- B. Installation of temporary structures and features that do not remain in existence for more than 45 days in any consecutive 12 month period;
- C. A site or building improvement that does not require a Certificate in the Certificate of Appropriateness Matrix as adopted by resolution by the HPC and on file in the Planning and Development Services Department.
- ii. An application for a Major Certificate of Appropriateness may include a request for a Variance pursuant to Section 11-05-05.3.M(1), *Applicability*.<sup>1020</sup>

(2) Procedure<sup>1021</sup>



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.A.
- (b) If an alteration, demolition, or relocation that requires a Certificate of Appropriateness occurs prior to the issuance of a Certificate of Appropriateness, the Planning Director shall, within 180 days, prepare a premature alterations report that identifies any violations of Section 11-05-05.3.A and recommends rehabilitative measures, if any. The Director shall provide the premature alterations report to the relevant Neighborhood Association and applicant. Upon issuance of the report, the Director shall negotiate with the applicant, relevant Neighborhood Association, and other parties in an effort to find a means of restoring the property to its original condition. Thereafter, but in no event to exceed 180 days from the issuance of the premature alterations report the Director shall provide to the Historic Preservation Commission a final report incorporating findings, recommendations, comments, and any other information. Pursuant to its grant of power under Idaho Code Section 67-

<sup>1020</sup> New, based on staff request to clarify this point, and to avoid applicant having to do two separate public hearings and face two rounds of potential appeals from two separate decisions.

<sup>1021</sup> Deleted current requirement to provide notice of decision within three calendar days.

4604 and Section 11-05-03.5.A, *Duties, Jurisdiction, and Authority*, the Commission may adopt, adopt with modifications, or deny the findings and recommendations of the final premature alterations report.<sup>1022</sup>

- i. The premature alterations procedure, including the preparation of the report and negotiations, may be waived at the discretion of the Planning Director at any time.
  - ii. During a review of a premature alteration, all work at the subject property, including further alterations, demolitions, relocations, construction, or modifications of any kind, shall cease until the final premature alterations report is adopted, or adopted with modifications. If denied by the Commission work on the property shall remain stopped until resolved either by further action of the Commission or appeal to the City Council.<sup>1023</sup>
- (c) The HPC shall schedule a public hearing and 15 calendar days prior to the hearing, notice shall be mailed to the applicant, to the property owners and residents within 300 feet of the exterior boundary of the parcel under consideration and to the registered Neighborhood Association.<sup>1024</sup>
- (d) If the HPC determines that the findings in Subsection (3) have not been met, it shall place upon its records the reason for such determination and shall notify the applicant in writing of its reasons and recommendations, if any, as to what actions could be taken in order to obtain a certificate.
- (e) The HPC shall make every effort to make a decision within 42 days after receiving a complete application, based upon published cut-off and hearing dates. An application shall be deemed to have been approved and a Certificate of Appropriateness approval shall be issued by the HPC unless one of the following occurs on or before the 42nd day if:
- i. A hearing cannot be held due to lack of a quorum; or
  - ii. The HPC makes a specific finding at the public hearing that there is good cause to continue the application. Good cause includes but is not limited to lateness of the hour, or a determination by the HPC that the submitted materials are incomplete to make a well informed decision on the application.
- (f) The decision is deemed to have been made on the date that the HPC adopts written findings of fact and conclusions of law.

### (3) Findings for Approval<sup>1025</sup>

The HPC shall approve the application, or approve it with conditions, if the following criteria have been met

<sup>1022</sup> New content as adopted November 9, 2021.

<sup>1023</sup> References to violations and penalties were not carried forward here, because they simply repeat standard enforcement provisions that apply to all violations of the Code.

<sup>1024</sup> Notice period revised from 14 days for internal consistency.

<sup>1025</sup> Current criteria have been reworded for internal consistency and clarity while retaining substance of the required finding. Current "considerations" were not carried forward, as their difference from criteria and findings is unclear. Current text on modifications was not carried forward here, as it restates the general minor modifications criteria for all types of applications that now appears in Common Procedures.

**(a) General Findings<sup>1026</sup>**

**i. Plans and Guidelines**

The design of the project is consistent with the following plans and guidelines as applicable to the property:

- A.** 1993 Downtown Boise Plan;
- B.** Urban Renewal Plans;
- C.** Design Guidelines for Residential Historic Districts;
- D.** Boise City Historic Preservation Plan (dated July 1979);
- E.** The Secretary of the Interior's Standards for the Treatment of Historic Properties with Guidelines for Preserving, Rehabilitating, Restoring & Reconstructing Historic Buildings (The Secretary of the Interior's Standards);
- F.** A Field Guide to American Houses by Virginia & Lee McAlester;
- G.** American Vernacular Design 1870-1940 An Illustrated Glossary by Herbert Gottfried and Jan Jennings; and
- H.** Design Guidelines for Commercial Historic Districts with the Secretary of the Interior's Standards for Historic Preservation August 2009.

**ii. Site Design**

The application shall be reviewed by the HPC, with input from other agencies, to evaluate the site design to determine compatibility and impact both on and adjacent to the site as it relates to access, parking lot design, landscaping, grading and storm drainage, and other development of the site. The HPC's decision with regards to site design shall be based upon the following findings as they relate to historic preservation:

**A. Traffic Impact, Pedestrian and Bicyclist Provisions**

That the site design minimizes impact of traffic on adjacent streets and that the pedestrian and bicyclist have been provided for by requiring sidewalks, landscaping and safe parking lot design as appropriate.

**B. Landscaping**

That the proposed landscaping enhances the Historic District and neighborhood with attributes that include but are not limited to protection of desirable existing trees, provision of street trees and adequate screening methods where needed to buffer adjacent uses and unsightly areas or features.

**C. On-Site Grading and Drainage**

That on-site grading and drainage have been designed so as to minimize off-site impact and provide for erosion control as required by the Public Works Department, Ada County Highway District and/or other jurisdictional agency.

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<sup>1026</sup> Consolidated 11-03-04.20.B(7)(b)i. and v.

**D. Utility Service Systems**

That utility service systems and equipment do not detract from the building design or adjacent buildings, and the size and location of all service systems appropriate and maintainable.

**iii. Structure Design**

The design of all proposed buildings shall be reviewed in accordance with the Design Guidelines for Boise City's Historic Districts and/or Boise City Design Guidelines for Residential Historic Districts, as well as the following findings:

**A. Building Mass**

The mass of the building shall be reviewed for its relationship to other buildings within the historic district and area, and with the use proposed by the applicant.

**B. Proportion of Building Facades**

The height to width relationship shall be compatible and consistent with the predominant architectural character of the Historic District.

**C. Shadow Relief/Design Interest**

The exterior of the building shall provide shadow relief and design interest compatible with the architectural character of the area.

**D. Relationship of Exterior Materials**

The appropriateness of materials and colors (paint colors are not reviewed for single-family residential structures) shall be reviewed as they relate to building mass, shadow relief and compatibility with other buildings within the Historic District and area.

**E. Multiple-Family Buildings<sup>1027</sup>**

That any multiple-family building is designed to include features that add to the visual and aesthetic appearance of the structure and help prevent a sterile, box-like appearance. Such features may include the use of brick or stone, roof or facade modulation, planter boxes, bay windows, balconies, or porches. Specific design features have been added to enhance the physical appearance of such multiple-family residential structures.

**F. Commercial/Industrial Buildings Adjacent to Residential Uses**

That the building is designed to minimize impacts on adjoining (including across a street or alley) residential uses and/or Residential zoning districts.

**(b) Findings for Alterations<sup>1028</sup>**

In addition to the general findings in Subsection (a). above, an application for the alteration of an existing building shall only be approved or approved with conditions if the HPC finds that the application:

<sup>1027</sup> Reference new multiple-family definition to distinguish between a larger set of residential uses than Multifamily Dwellings in the Consolidated Draft.

<sup>1028</sup> Consolidated and simplified findings.

- i. Is consistent with the Design Guidelines for Boise City's Commercial Historic Districts and Residential Historic Districts and that based on the Guidelines, the request will not be incongruous with the historical, architectural, archeological, educational or cultural aspects of the district;
- ii. Is consistent with the Secretary of the Interior's Standards for Rehabilitation, or other standards as applicable (preservation, restoration or reconstruction);
- iii. Supports the goals, objectives and policies of the Comprehensive Plan and the plans referenced in the Comprehensive Plan; and
- iv. Complies with the dimensional standards and other applicable requirements of this Code including, but not limited to, setbacks, height restrictions and parking requirements unless the HPC finds that modifying those standards is necessary to protect the overall characteristics of the district and to comply with the adopted Design Guidelines.

**(c) Findings for Signs<sup>1029</sup>**

In addition to the general findings in Subsection (a) above, an application for a sign shall only be approved if the HPC finds that the sign will be congruous with the building in design, materials, size, and location.

**(d) Findings for Demolitions or Relocations**

- i. If the application involves the demolition or relocation of a structure, in addition to the general findings in Subsection i above, the HPC must find that at least three out of the five following criteria have been met:
  - A. The building, site, structure or object is not classified as contributing within the district as stated on the survey form on file in the Planning and Development Services Department.
  - B. The building, site, structure or object cannot reasonably meet national, state or local criteria for designation as an historic property.
  - C. Demolition of the building, site, structure or object would not have an adverse impact on the character of the district and/or the adjacent properties.
  - D. The owner has reasonably demonstrated that rehabilitation of the building, site, structure or object would not be economically practical, realistic or viable based on review of the information required in the application provided by the applicant at the time the request for a Certificate of Appropriateness is submitted.<sup>1030</sup>
  - E. Plans have been submitted to redevelop the property if the demolition proceeds and such plans will have a positive effect on the district and/or adjacent properties. The size, scale, use, materials and/or overall design of the project may be considered as qualities for producing a positive effect.

<sup>1029</sup> Current 11-05-09.17.

<sup>1030</sup> Wording revised for clarity.

- ii. If the HPC has approved a partial demolition and approved the replacement structure and the plans for the replacement structure remain the same, and the Building Official later determines in writing that a full demolition is necessary for life safety and there are no other cost effective alternatives, the Planning Director may approve the full demolition.<sup>1031</sup>

**(e) Findings for Change in Zoning Classification or Change in Use**

If the application requests a change in zoning designation or a change of use, in addition to the general findings in Subsection i above, the HPC must find that the following criteria have been met:

- i. That the request supports the goals, objectives and policies of the Comprehensive Plan and the applicable neighborhood plans;<sup>1032</sup> and
- ii. That the request will be congruous with the historical, architectural, archeological, educational or cultural significance of the district.

**(f) Findings if a Request for Variance is Included<sup>1033</sup>**

If the application included a request for a Variance pursuant to Section 11-05-05.3.L, then, in addition to finding that the applicable criteria in Subsections i through v above have been met, the HPC shall only approve, approve with conditions, or deny the requested Variance if it determines that the criteria in Section 11-05-05.3.M(3) have been met.

**B. Conditional Use Permit - Initial Approval or Major Expansion**

**(1) Applicability**

- (a) A Conditional Use Permit is required for any use that is classified as a Conditional Use in Table 11-03.1: *Table of Allowed Uses* and for a Major Expansion of an approved conditional use.
- (b) No conditional use shall be conducted except in compliance with all applicable provisions of this Code and with any conditions upon such Conditional Use Permit approval.<sup>1034</sup>

<sup>1031</sup> Reworded for clarity.

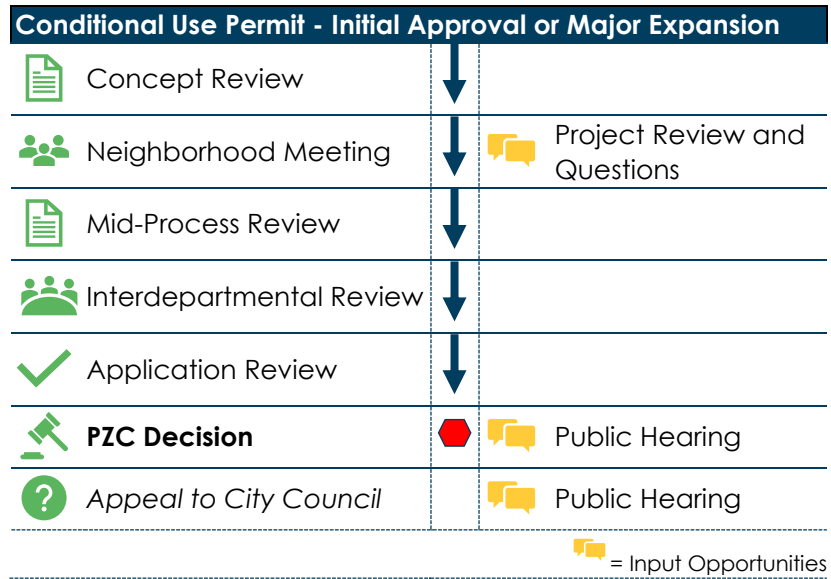
<sup>1032</sup> Deleted reference to Chapter 5/Parks, Recreation and Cultural Resources and replaced within general reference to the Comprehensive Plan. This change has been applied throughout the Code.

<sup>1033</sup> New, based on staff request to clarify this point, and to avoid applicant having to do two separate public hearings and face two rounds of potential appeals from two separate decisions.

<sup>1034</sup> Second sentence is new.



(2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.B.
- (b) An application for a Conditional Use Permit may be combined with an application for a Variance pursuant to Section 11-05-05.3.L, and both applications may be reviewed and a decision made by the PZC after a single public hearing, provided that the decision on the Variance application shall be based on the findings for approval in Section 11-05-05.3.M(3).<sup>1035</sup>
- (c) The PZC may extend the review and processing period for Conditional Use Permit applications up to 66 days from the date prior to the date the application was submitted. This extended review period is to allow for adequate staff research and analysis, agency review and comment, coordination with other City departments, and coordination with the applicant.<sup>1036</sup>
- (d) As part of a Conditional Use Permit, the PZC may approve a change from required setbacks, off-street parking, fence heights, and other standards. The application must specify the changes being requested.
- (e) In addition to those types of conditions listed in Section 11-05-04.6.A(4), *Conditions*, the PZC may attach additional conditions to the approval of a Conditional Use Permit, including but not limited to the following types of conditions:
  - i. Conformity to approved plans and specifications;

<sup>1035</sup> Replaces current text that "As part of a Conditional Use Permit, the PZC may approve a change from required setbacks, off-street parking, fence heights, and other standards. The application must specify the changes being requested" in order to reduce confusion about the difference between those changes and the Variance procedure.

<sup>1036</sup> Expanded the applicability of current Section 11-03-03.A(3) to CUPs.

- ii. Provision of open spaces, pathways, buffer strips, walls, fences, landscaping, and lighting;
  - iii. Maximum volume of traffic generated, requirements for off-street parking, service drive design, construction standards, vehicular movements within the site, and points of vehicular ingress and egress;
  - iv. Performance characteristics related to noise, vibration, and other potentially dangerous or objectionable elements;
  - v. Limits on hours of operation;
  - vi. The period of time for which a permit is issued;
  - vii. Guarantees as to compliance with the terms of the permit;
  - viii. Number, location, color, size, height, lighting, and landscaping of outdoor signs and structures;
  - ix. Public improvements, including the installation of street lights, in accordance with the requirements of the Public Works Department; and
  - x. Requiring irrigation or drainage facilities to be covered or fenced for public safety.
- (f) Conditions applied by the PZC shall not restrict or specify the exterior detail or design, color, or materials, except if such detail is of such magnitude as to affect the general appearance and compatibility of the development with its surroundings.

### (3) Findings for Approval<sup>1037</sup>

#### (a) General

Unless Subsection (b) below applies, the PZC shall approve the application or approve it with conditions if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

- i. The proposed use is not in conflict with the Comprehensive Plan;<sup>1038</sup>
- ii. The location and design of the proposed use is compatible to other uses in the surrounding area;
- iii. The proposed use will not place an undue burden on transportation and other public facilities in the vicinity and does not adversely impact the delivery of services by any political subdivision providing services;
- iv. The proposed use will not create any material negative impacts to uses in the surrounding area, or any material negative impacts will be mitigated to the maximum extent practicable, or the public benefits of the proposed use outweighs any material negative impacts of the proposed use that cannot be mitigated;
- v. If the application is for a Drive-Through Facility, it will not adversely affect the safety or convenience of pedestrian traffic; and<sup>1039</sup>

<sup>1037</sup> Findings simplified to avoid repetition and overlap with general criteria for appointed body decisions (which require consistency with the Comprehensive Plan and all applicable Code standards, including Use-Specific Standards).

<sup>1038</sup> Minor revision to wording to align with LLUPA at request of City Attorney.

<sup>1039</sup> Revised to apply to all Drive-Through Facilities (not just in MX-5 district).

- vi. If the application is combined with an application for a Variance, the criteria for approval of the requested Variance in Section 11-05-05.3.L have been met.

~~(b) Single-Family Detached or Duplex Dwelling in R-1B or R-1C Incentive Area<sup>1040</sup>~~

~~If the application is for a Single-Family Detached or Duplex Dwelling in a location in the R-1B or R-1C zoning district where three to 12 dwelling units could be constructed pursuant to Section 11-04-03.7.D(2), the PZC shall approve the application, or approve it with conditions, if the applicant has demonstrated that:~~

- ~~i. The site cannot accommodate a higher density of residential development with three to 12 units because of unique site features including but not limited to terrain, shape and size, access constraints, or the presence of significant utility easements, that do not generally appear on other nearby properties in the R-1B or R-1C districts where the same incentives for construction of three to 12 units are available.~~
- ~~ii. The construction of a higher density of residential development with three to 12 units on the property is not practicable due to other technical or engineering factors related to the site, location, or context, or will create significant negative impacts on adjacent properties in the R-1B or R-1C where construction of three to 12 units is not permitted, and that cannot be mitigated on site.~~

**C. Design Review - Major Projects<sup>1041</sup>**

**(1) Applicability**

**(a) Compliance Required**

A Major Project Design Review application is required for each of the following, unless listed as action that can be approved as a Minor Project Design Review under Section 11-05-05.2.C or exempted by Subsection (b) below:

- i. Any visible exterior improvement or alteration to a site, building, or structure, including demolition, for all properties subject to the adopted Citywide and Downtown Design Standards and Guidelines;
- ii. Any development in the CD-O district that meets the criteria set forth in Section 11-02-07.2.A(4), *Design Review Permit*; and
- iii. Any development in the HD-O district that is also subject to the Citywide Downtown Design Standards and Guidelines.

**(b) Exceptions**

- i. Single-Family Detached, Single-Family Attached, Duplex, Triplex, and Fourplex Dwellings<sup>1042</sup> are exempted from the requirements of this Section, unless they are required to comply pursuant to Section 11-04-03.3, *Residential Small Lots*.












<sup>1040</sup> ~~New in Consolidated Draft.~~


<sup>1041</sup> Current 11-03-04.12 unless otherwise noted.

<sup>1042</sup> Expanded list of exempting housing types to including single-family attached, duplexes, triplexes, and fourplexes to remove procedural barriers to affordable housing options. All those housing types have design standards in the Use-Specific Standards that will be reviewed as part of a Zoning Certificate or Conditional Use Permit.

- ii. Freestanding Parking Lots are exempted from the requirements of this Section.<sup>1043</sup>
- iii. Installation or modification of the following:<sup>1044</sup>
  - A. Awnings and canopies;
  - B. Building additions or accessory buildings less than 200 square feet;
  - C. Patios and decks;
  - D. Roof and fascia changes;
  - E. Window and door modifications;
  - F. Minor landscape or parking lot revisions;
  - G. Minor repairs that do not result in discernable changes; and
  - H. Painting.
- (c) Applications that are not required to complete Minor Project or Major Project Design Review are still required to comply with applicable design standards in Section 11-04-09, *Building Design*.

(2) Procedure

| Design Review - Major Projects   |   |  |
|--|---|--|
|  Concept Review             | ↓   |  |
|  Neighborhood Meeting     | ↓   |  Project Review and Questions |
|  Mid-Process Review       | ↓   |  |
|  Interdepartmental Review | ↓   |  |
|  Application Review       | ↓   |  |
|  <b>DRC Decision</b>      |  |  Public Hearing               |
|  Appeal to City Council   |   |  Public Hearing               |

 = Input Opportunities

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.C.
- (b) The Planning Director shall determine whether the application is categorized as requiring Minor Project or Major Project Design Review.

<sup>1043</sup> New. Freestanding parking lots should be reviewed by staff only for compliance with general development standards, not design standards. Parking lots have been deleted from subsequent lists in Minor Design Review.

<sup>1044</sup> Replaces current vague text on minor modifications to existing buildings.

- (c) Applications that are for new buildings or building additions greater than 200 square feet shall be prepared by, or under the direct supervision of, a duly licensed architect who shall be clearly identified on such designs, unless exempted under Idaho Code, Section 54-306.
- (d) If a Design Review application requires associated approvals by the PZC or City Council, such as a Conditional Use Permit or Planned Unit Development,<sup>1045</sup> those approvals shall be obtained before an application for Design Review approval may be processed.
- (e) The Planning Director may extend the review/processing period for Major Design Review applications up to 66 days from date prior the application was submitted. This extended review period is to allow for adequate staff research and analysis, agency review and comment, coordination with other City departments, and coordination with the applicant.<sup>1046</sup>
- (f) Except for development on Small Lots, the DRC shall not require reductions in height, density, floor area ratio, or other regulations included in Table 11-04.2: *Residential District Dimensional Standards* and Table 11-04.3: *Mixed-Use, Industrial, and Open Land and Institutional District Dimensional Standards*, unless required for reasons public safety or health.<sup>1047</sup>

### (3) Findings for Approval

The DRC shall approve the application, or approve it with conditions, if it complies with the following criteria.

#### (a) Site Design<sup>1048</sup>

- i. The site provides a safe, convenient and efficient network that minimizes conflicts between pedestrians, bicyclists and vehicular traffic by creating a network that includes sidewalks, pathways, landscaping that promotes and supports active transportation.
- ii. The landscaping screens promote well-conceived and attractive landscaping that reinforces the architectural and site planning concepts that will retain and protect existing vegetation where possible and enhance environmental conditions of the Treasure Valley that will reduce potential impacts between adjacent and neighboring uses, screen and conceal utilities, mechanical units and services areas.
- iii. The on-site grading and drainage are designed to minimize off- site impact and provide for erosion control.
- iv. Signs minimize visual clutter.<sup>1049</sup>

<sup>1045</sup> "such as a Conditional Use Permit or Planned Unit Development" is new as the more common forms of application that may require PZC or City Council approval prior to Design Review.

<sup>1046</sup> Expanded the applicability of current Section 11-03-03.A.(3) to Design Review.

<sup>1047</sup> Updated reference to "general bulk regulations" to cross reference the dimensional standard summary tables. "Diminution of property values was removed from this list as unusual, and unclear regarding the property to which it applies.

<sup>1048</sup> Findings have been significantly revised for clarity.

<sup>1049</sup> Reference to business identification removed to avoid unconstitutional content-based regulation.

- v. Utility systems do not detract from building design and their size and location are appropriate and maintainable.

**(b) Structure Design<sup>1050</sup>**

- i. The building mass is appropriately designed to address the street and create a pedestrian-friendly environment.
- ii. The design employs façade articulation techniques that add visual interest to the pedestrian realm and reduce the perceived scale of large buildings.
- iii. Openings in the building facade provide visual interest to the pedestrian and mitigates impacts of monotonous flat walls planes, blank wall areas and provide shadow relief.
- iv. Exterior materials are high-quality materials that minimize maintenance cost and provide visual interest to the street. Locally sourced and sustainable materials are strongly encouraged.
- v. The building design shall minimize impacts on adjoining (including across a street or alley) Residential zoning districts and residential uses.

**(c) Adopted Plans and Design Guidelines<sup>1051</sup>**

The application complies with all adopted plans and design guidelines, including the Citywide and Downtown Design Standards and Guidelines, unless modified by conditions attached by the DRC to satisfy the required findings in Subsections (a) and (b) above.

**D. Floodplain Variance<sup>1052</sup>**

**(1) Applicability**

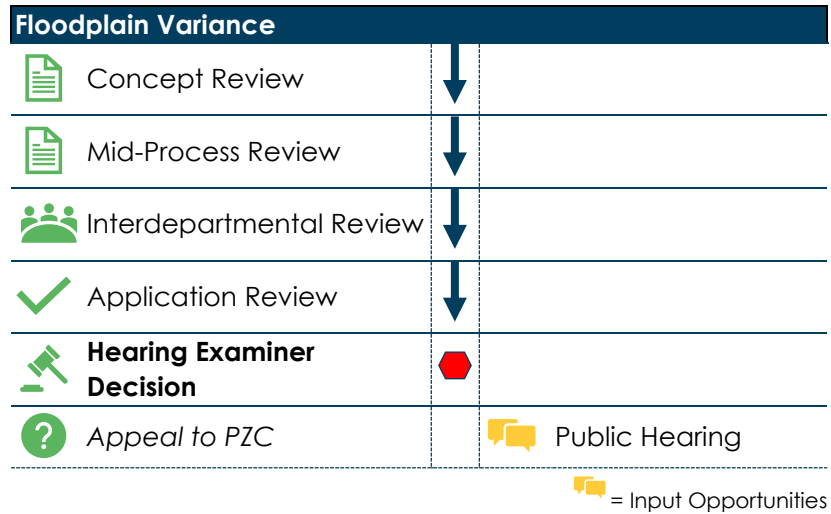
- (a) A Floodplain Variance is required for all requests to vary the requirements of Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.
- (b) Floodplain Variances may generally be issued for new construction and substantial improvements to be erected on a lot of one-half acre or less in size that is contiguous to and surrounded by lots with existing structures constructed below the Base Flood Elevation.

<sup>1050</sup> Updated all instances of "should" to "shall."

<sup>1051</sup> Deleted reference to appendix.

<sup>1052</sup> Current 11-08-08. Vague statement that standards increase as project site area increases was not carried forward.

## (2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.D.
- (b) In reaching a decision, the Hearing Examiner shall review:
- i. The danger that materials may be swept onto other lands to the injury of others;
  - ii. The danger to life and property due to flooding or erosion damage;
  - iii. The susceptibility of the proposed facility and its contents to flood damage and the effect of such damage on the individual owner;
  - iv. The importance of the services provided by the proposed facility to the community; the necessity to the facility of a waterfront location where applicable;
  - v. The availability of alternative locations for the proposed use which are not subject to flooding or erosion damage;
  - vi. The compatibility of the proposed use with existing and anticipated development;
  - vii. The relationship of the proposed use to the Comprehensive Plan and floodplain management program for that area;
  - viii. The safety of access to the property in times of flood for ordinary and emergency vehicles;
  - ix. The expected heights, velocity, duration, rate of rise, and sediment transport of the flood waters, if applicable, expected at the site; and
  - x. The costs of providing governmental services during and after flood conditions, including maintenance and repair of public utilities and facilities including but not limited to sewer, gas, electrical, water systems, and streets and bridges.
- (c) Any applicant to whom a Floodplain Variance is issued shall be given written notice that the cost of flood insurance may be commensurate with any increased flood risk.

- (d) The Floodplain Administrator shall maintain a record of all Floodplain Variance actions, including justification for their approval.

**(3) Findings for Approval<sup>1053</sup>**

**(a) General<sup>1054</sup>**

The Hearing Examiner shall approve a Floodplain Variance request, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* and the following criteria:

- i. Floodplain Variances shall not be issued within any designated floodway if any increase in flood levels during the Base Flood discharge would result.
- ii. A Floodplain Variance shall only be issued upon determination that the variance is the minimum necessary, considering the flood hazard, to afford relief.
- iii. A Floodplain Variance shall only be issued upon a showing of good and sufficient cause, a determination that failure to grant the variance would result in exceptional hardship to the applicant; and a determination that the granting of a variance shall not result in increased flood heights, additional threats to public safety, extraordinary public expense, the creation of nuisances, degradation of or victimization of the public, or conflict with existing local laws or ordinances.
- iv. The Floodplain Variance is consistent with the National Flood Insurance Program adoption of the general zoning law principles that:<sup>1055</sup>
  - A. They pertain to a physical piece of property;
  - B. They are not personal in nature;
  - C. They do not pertain to the uniqueness of the structure, its inhabitants, economic or financial circumstances;
  - D. They primarily address smaller lots in densely populated residential neighborhoods; and
  - E. They should be approved quite rarely.
- v. Floodplain Variances for nonresidential buildings may be approved in very limited circumstances to allow a lesser degree of flood-proofing than watertight or dry-flood-proofing, where it can be determined that such action will have low damage potential, and otherwise complies with the standards in Sections 11-02-07.3.C(3)(b)i, *Uses* and 11-02-07.3.C(3)(b)ii, *Utilities*.

**E. Hillside Development Permit - Category 3**

**(1) Applicability**

- (a) A Hillside Development Permit is required for any development proposal for properties when any topographical slope exceeds 15 percent or where adverse conditions associated with slope stability, expansion soils, high water table and

<sup>1053</sup> Current "considerations" and "conditions" have been consolidated into a single list in order to reduce confusion between the meaning of those two terms and the term "criteria" used in the remainder of the Code.

<sup>1054</sup> Current 11-08-08.1.C. Provisions on attaching conditions was not carried forward here, because it repeats the standard authority to attach conditions in Common Procedures.

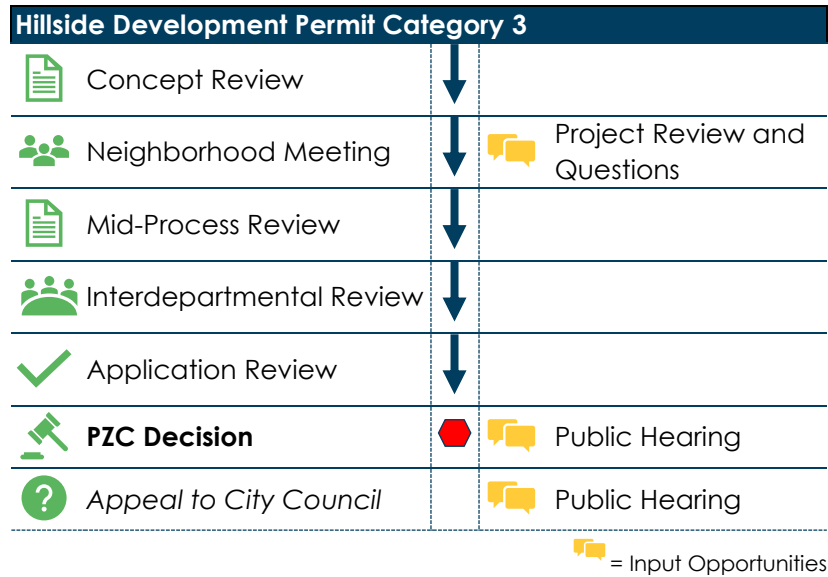
<sup>1055</sup> Wording revised for clarity.



springs, erosion or sedimentation are present as determined by the Planning Director or City Engineer.

- (b) A Category 3 Hillside Development Permit is required for those projects defined in Section 11-02-07.3.D(3)(c).

(2) Procedure



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.E.

(3) Findings for Approval<sup>1056</sup>

The PZC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

- (a) The proposed development complies with the technical requirements of Sections 11-02-07.3.D, *HS-O: Hillside Development Overlay* and 11-04-05.6, *Foothills Development Standards* if applicable including those related to grading, drainage, hazardous areas, revegetation, preservation of outstanding and unique features;<sup>1057</sup>
- (b) If located in the FP-O district, the proposed development complies with all requirements of Section 11-02-07.3.C, *FP-O Flood Protection Overlay*.<sup>1058</sup>
- (c) The land itself is capable of the volume and type of development proposed as determined by geological, hydrological and soils engineering analysis; and
- (d) The project does not create a potential hazard of flooding, soil instability, fire, and erosion.

<sup>1056</sup> Finding of no adverse impact was not carried forward, since compliance with updated Hillside standards achieves that result.

<sup>1057</sup> Updated references to Hillside Development Overlay and Foothills Development Standards. Criteria requiring discretion were not carried forward for Category 1 and 2 permits.

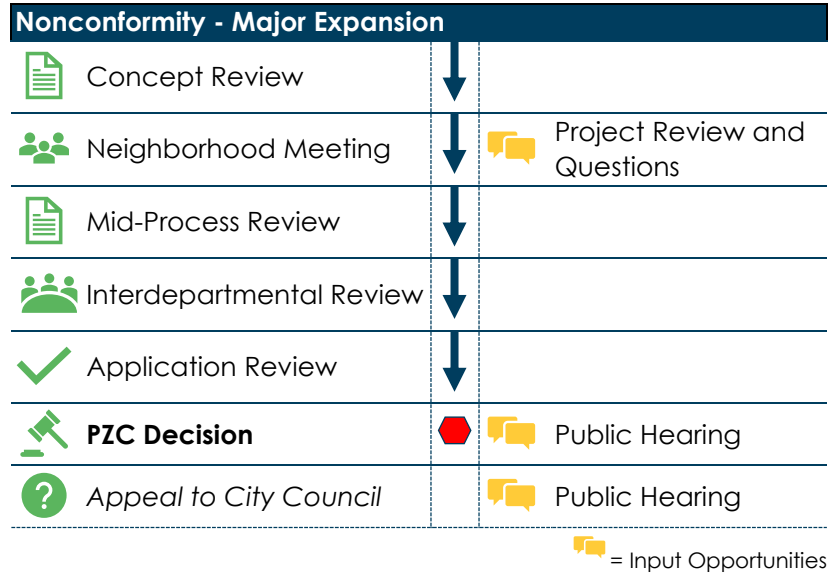
<sup>1058</sup> Deleted reference to gulches.

**F. Nonconformity - Major Expansion<sup>1059</sup>**

**(1) Applicability**

This procedure applies to all applications to expand a nonconforming use or building by 20 percent or more of the areas occupied at the time the use became nonconforming.<sup>1060</sup>

**(2) Procedure**



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.F.

**(3) Findings for Approval<sup>1061</sup>**

The PZC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

- (a) The expansion will not violate a policy of the Comprehensive Plan;
- (b) The expansion will not unduly burden transportation or service facilities in the vicinity and does not adversely impact the delivery of services by any political subdivision providing services;<sup>1062</sup>
- (c) Will not result in material adverse impacts to surrounding properties; or that any deviation from those criteria has been mitigated to the maximum extent practicable, or the public benefits of the proposed expansion outweighs any material negative impacts of the proposed expansion that cannot be mitigated; and

<sup>1059</sup> Current 11-03-04.8 or 11-11-06, unless otherwise noted. Wording revised for clarity.

<sup>1060</sup> Revised to apply to nonconforming buildings as well as uses, in order to promote continued use of existing structures.

<sup>1061</sup> From 11-03-04.8.B(3).

<sup>1062</sup> Last clause added for internal consistency.

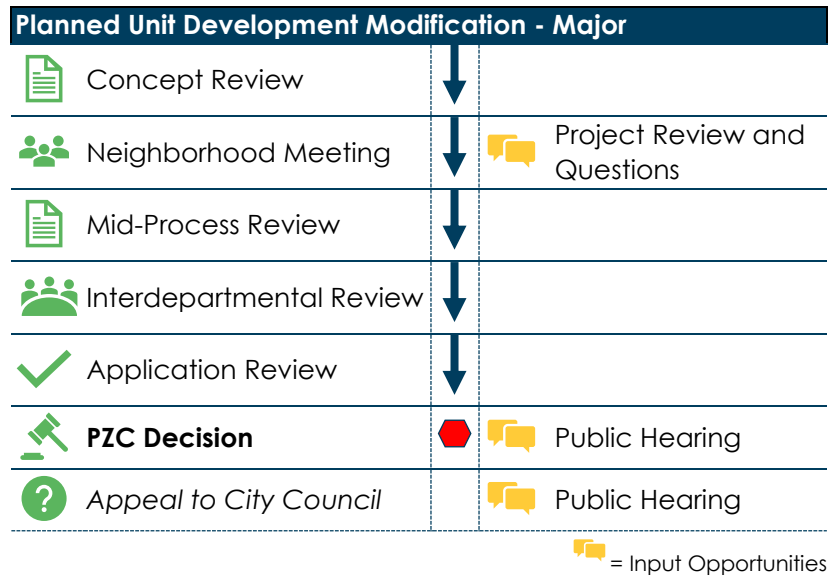
- (d) Any expansion of a nonconforming building will not increase the degree of nonconformity of that part of the building that does not meet the provisions of this Code.<sup>1063</sup>

## G. Planned Unit Development Modification - Major

### (1) Applicability

This Section applies to applications for modifications to approved Planned Unit Developments that the Planning Director determines are not eligible for approval as a Planned Unit Development Minor Modification pursuant to Section 11-05-05.2.I.

### (2) Procedure



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.G.

### (3) Findings for Approval

The PZC shall approve the application, or approve it with conditions, if it complies with the required findings for approval for a Zoning Map Amendment pursuant to Section 11-05-05.4.J(2)(c) as applicable to a Planned Unit Development.

## H. Reclassification of Historic Resource<sup>1064</sup>

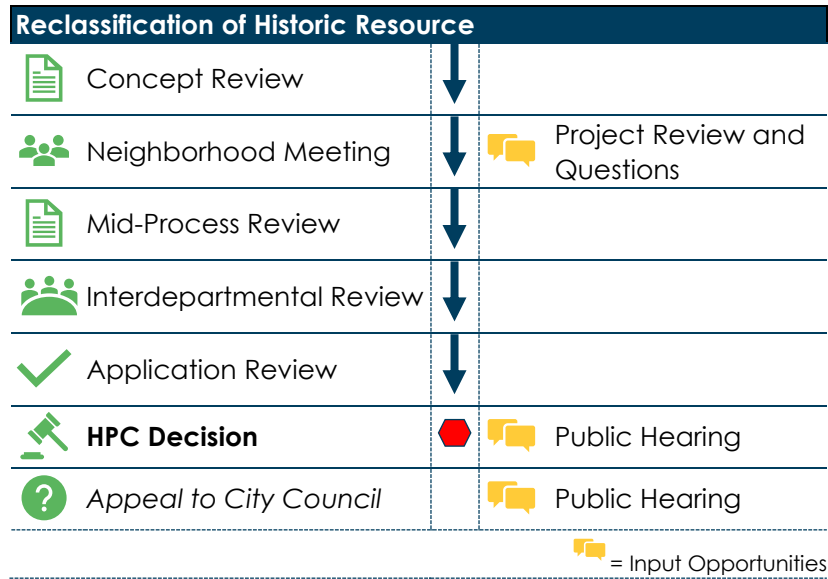
### (1) Applicability

This procedure applies to any application to change the classification of any building, site, structure, or object located within a designated Historic District from a non-contributing to a contributing property, or from a contributing to a non-contributing property, which action may occur on or after the 50th anniversary of its original construction.

<sup>1063</sup> New.

<sup>1064</sup> Wording simplified for clarity.

(2) Procedure<sup>1065</sup>



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.H.
- (b) The application shall be filed pursuant to a motion of the Historic Preservation Commission or at the request of the Planning Director, property owner, or an applicant with the written consent of the property owner,
- (c) The HPC may reclassify a building, site, structure, or object within a designated HD-O district from non-contributing to contributing or from contributing to non-contributing.
- (d) For applications involving alterations, additions, or restorations, the HPC shall schedule a public hearing and 15 calendar days prior to the hearing, notice shall be mailed to all adjacent property owners and residents, and the registered Neighborhood Association.<sup>1066</sup>

(3) Findings for Approval

The HPC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

- (a) A building, site, structure, or object may be reclassified from non-contributing to contributing or from contributing to non-contributing if the HPC determines that an error was made on the original survey.
- (b) A building, site, structure, or object may be reclassified from contributing to non-contributing or from non-contributing to contributing if alterations, additions or

<sup>1065</sup> Text on separate appeal process was not carried forward; standard provisions for appeal to City Council apply.

<sup>1066</sup> Notice procedure increased from 14 days for internal consistency with other noticing requirements.

restorations have been made so that the classification prior to the change no longer reflects the proper classification after the change.

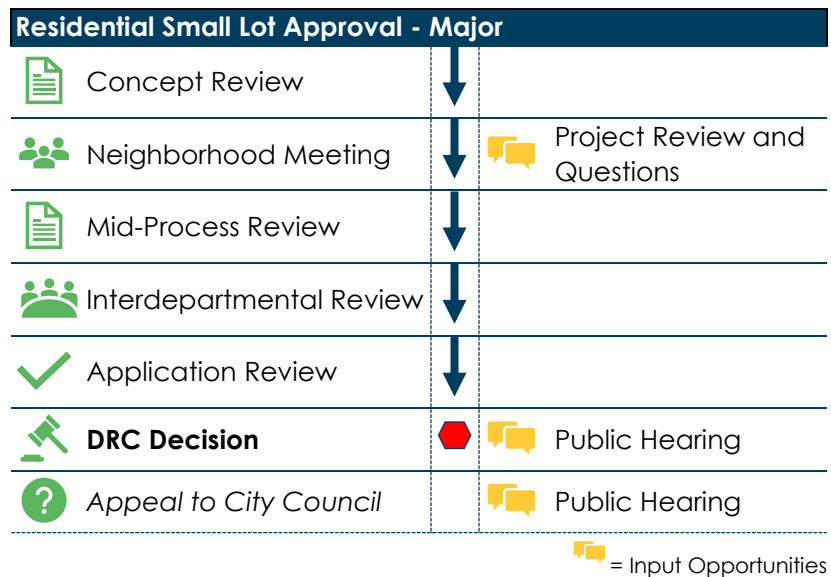
- (c) If the HPC determines that a reclassification is justified pursuant to Subsections (a) or (b) above, the HPC shall also make the following findings in writing.
  - i. Whether or not the building, site, structure, or object is eligible for the National Register of Historic Places.
  - ii. Whether or not the building, site, structure, or object contributes to the HD-O district in which it is located.

#### I. Residential Small Lot Approval - Major<sup>1067</sup>

##### (1) Applicability

This procedure applies to all applications subject to the Residential Small Lot standards in Section 11-04-03.3 that contain five or more dwelling units on five or more contiguous Small Lots.

##### (2) Procedure



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.I.

##### (3) Findings for Approval

The DRC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council*, including but not limited to the applicable standards set forth in Section 11-04-03.3, *Residential Small Lots*.

<sup>1067</sup> New, but based on current provisions for evaluating consistency with substandard original lot of record standards.












**J. River System Permit - Major<sup>1068</sup>**


**(1) Applicability**

A Major River System Permit is required for all lands and waters and all aquatic, wetland, riparian and upland environments within the jurisdiction of Boise City that lie:

- (a) Within the 100 year Floodplain boundaries adjacent to the Boise River;
- (b) Within the Setback Lands and Waters as described in Section 11-02-07.3.B(6), *Setbacks*; or
- (c) Within Class A, Class B and Class C areas as described in Section 11-02-07.3.B(5), *A, B, And C Lands and Waters Classifications* and that are not eligible for review as a Minor River System Permit pursuant to Section 11-05-05.3.L.

**(2) Procedure**

| River System Permit - Major   |   |  |
|---|---|--|
|  Concept Review                  | ↓   |  |
|  Neighborhood Meeting            | ↓   |  Project Review and Questions |
|  Mid-Process Review              | ↓   |  |
|  Interdepartmental Review        | ↓   |  |
|  Application Review            | ↓   |  |
|  <b>PZC Decision</b>           |  |  Public Hearing             |
|  <i>Appeal to City Council</i> |   |  Public Hearing             |

 = Input Opportunities

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.3.J.
- (b) In addition to that Interdepartmental Review that may be required by the Director pursuant to Section 11-05-04.3.D prior to submittal of an application, the Director may require an Interdepartmental Review of the application after the completeness of an application has been confirmed pursuant to Section 11-05-04.4.<sup>1069</sup>
- (c) Review by the Parks Board is required when the property to which the application relates is adjacent to or includes the Greenbelt setback lands and waters.

<sup>1068</sup> Current 11-03-04.19 unless otherwise noted. New "Minor Permit" and "Major Permit" distinctions to help clarify which applications require a public hearing process and approval by the Hearing Examiner. References to Conceptual Review were not carried forward.

<sup>1069</sup> New.

- (d) The application shall be reviewed concurrently with all other applications required for approval of the specific development proposed for the property.

### (3) Findings for Approval

The PZC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

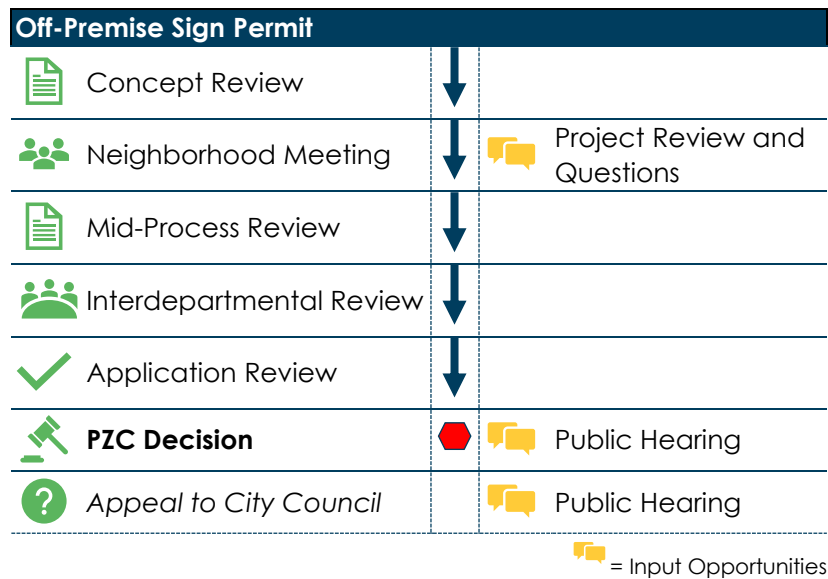
- (a) The proposed development is in compliance with the applicable standards for uses in Class A, B or C lands and waters.
- (b) The proposed development complies with all the policies and standards of the Comprehensive Plan, the Boise River Plan, Section 11-02-07.3.C, *FP-O Flood Protection Overlay*, and Section 11-02-07.3.B, *BR-O: Boise River System Overlay*.<sup>1070</sup>
- (c) The proposed development includes measures designed to insure that natural resources functions and values are preserved or enhanced and maintained.
- (d) The proposed development complies with or shall comply with all local, state and federal laws and regulations.

## K. Sign Permit for Off-Premise Sign

### (1) Applicability

This procedure applies to all applications for approval of an off-premise sign.

### (2) Procedure



All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.K.

<sup>1070</sup> Revised references to the Floodplain Ordinance and Boise River System Ordinance to the applicable Sections of the new Code.












**(3) Findings for Approval**


The PZC shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the criteria for in Section 11-04-011, *Signs*, including but not limited to approval criteria in Section 11-04-011.9.

**L. Special Allowed Use With Alternative Form<sup>1071</sup>****(1) Applicability**

This procedure applies to all applications for a Special Allowed Use, as shown in Table 11-03.1: *Table of Allowed Uses* that comply with all Use-Specific Standards for the use except that they do not meet one or more of Use-Specific Form Standards applicable to the Special Allowed Use and therefore are proposing an Alternative Form for approval.

**(2) Procedure**

| Special Allowed Use with Alternative Form   |   |  |
|---|---|--|
|  Concept Review                  | ↓   |  |
|  Neighborhood Meeting            | ↓   |  Project Review and Questions |
|  Mid-Process Review              | ↓   |  |
|  Interdepartmental Review       | ↓   |  |
|  Application Review            | ↓   |  |
|  <b>PZC Decision</b>           |  |  Public Hearing             |
|  <i>Appeal to City Council</i> |   |  Public Hearing             |

 = Input Opportunities

(a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.L.

(b) The review of the PZC shall be limited to consideration of the proposed Alternative Form of the proposed development, and shall not consider or attach conditions to the use, operation, or activities within the proposed development

**(3) Findings for Approval**

The PZC shall approve the Alternative Form for the Special Allowed Use, or approve it with conditions, if it determines that at least one of the following criteria have been met:

(a) The Alternative Form will promote the urban design goals of the Comprehensive Plan and other approved plans applicable to the property as well or better than

<sup>1071</sup> New.



compliance with all Use-Specific Form Standards applicable to the Special Allowed Use;

- (b) The Alternative Form is needed because the use and design of adjacent developed properties makes it impracticable to comply with the one or more of the Use-Specific Form Standards, or that compliance with one or more of the Use-Specific Form Standards would create material negative impacts on the adjacent property that cannot be effectively mitigated; or
- (c) If the Alternative Form includes a reduction in the required minimum height of the building:
  - i. The reduced height of the building will still provide an adequate sense of street enclosure and an adequate level of residential or nonresidential activity from the building to promote the goals of the Comprehensive Plan and other applicable plans for the property;
  - ii. The reduced height of the building, and any resulting reduction in the size of the building will not result in the underdevelopment of the site or the inefficient use of City facilities and infrastructure; or
  - iii. The applicant has demonstrated that financing is unavailable for a building of the required minimum height, and that the public benefit of development or redevelopment of the property with the proposed alternative height will outweigh the loss of street enclosure and residential or nonresidential activity from the shorter building.

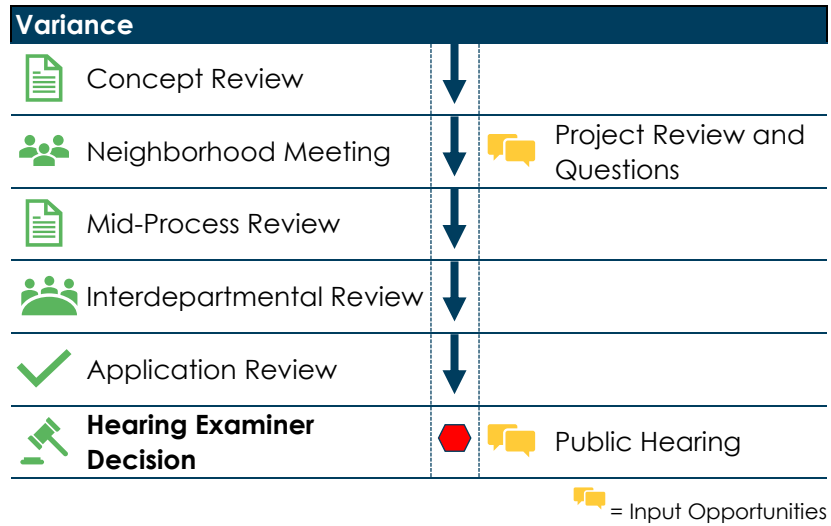
#### M. Variance<sup>1072</sup>

##### (1) Applicability<sup>1073</sup>

- (a) This procedure applies to all applications by a property owner to deviate from the standards of this Code applicable to a proposed action or development, and that is not eligible for review and decision pursuant to Section 11-05-05.3.D, *Floodplain Variance*.
- (b) An application for a Variance shall not include a request to permit a use that is not shown as an allowed, conditional, temporary, or accessory use for that zoning district in Section 11-03-02, *Table of Allowed Uses* and shall not be used to modify Use-Specific Standards applicable to an allowed, conditional, temporary, or accessory use in Section 11-03-03, *Use-Specific Standards*.

<sup>1072</sup> Current 11-03-04.14.A. and C. unless otherwise noted. Title revised from Non-Administrative Variance to match general practice. The category of Administrative Variances in current Section 11-03-04.14.B, has not been carried over; all Variances will be heard by the Hearing Examiner. Similarly, the separate procedure for approving a Variance to a project that originally required PZC approval has not been carried forward.

<sup>1073</sup> Subsection (a) has been added for clarity and Subsection (b) to reflect standard practice. Current Subdivision Waiver process in 11-09-05 is now consolidated into this process to allow PZC to make these decisions in the course of subdivision review. Text revised to avoid overlap with Findings.

(2) Procedure<sup>1074</sup>

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 3 application apply unless specifically modified by the provisions of this Section 11-05-05.3.L.
- (b) A Neighborhood Meeting shall be held in accordance with Section 11-05-04.3.B, *Neighborhood Meeting*, except that only the residents immediately adjacent (including those across a roadway, street, or alley) project and the registered Neighborhood Association need to be notified.
- (c) A public hearing before the Hearing Examiner is required pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing*, except that mailed notice for a Variance is required only to the applicant and to each property owner, purchaser of record, or resident within the subject property and adjoining the subject property (including those properties across a street, alley, canal, or other public right-of-way).
- (d) If the application is combined with an application for a Conditional Use Permit, the Hearing Examiner shall defer a decision on the application to the PZC, which shall decide the request for Variance pursuant to the findings for approval in Subsection (3) below.

(3) Findings for Approval<sup>1075</sup>

The Hearing Examiner shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(a), *Decision by Director, City Official, or Hearing Examiner* and the following criteria:

<sup>1074</sup> Provision for waiver of appeal period was not carried forward, as it tends to make appeal rights turn on the decisions of non-elected and non-appointed officials (i.e. neighboring property owners).

<sup>1075</sup> Revised to improve alignment with LLUPA and avoid subjective provisions.

- (a) There is a physical hardship associated with the property that is not caused by the actions of the property owner and is not generally applicable in the district;<sup>1076</sup>
- (b) Granting of the Variance will not be in conflict with the public interest; and
- (c) Granting of the Variance will not create material negative impacts to the public health, safety, or welfare, or injurious to the property or improvements of other property owners, or the quiet enjoyment of the property, or any negative impacts have been mitigated to the maximum extent practicable.
- (d) If the requested Variance is to the standards in Section 11-04-04, *Subdivision Standards*:
  - i. The tract to be subdivided is of unusual size or shape or has unusual conditions such that the strict application of these regulations would result in substantial hardship or inequity;
  - ii. The requested Variance is necessary so that the property may be developed in a reasonable manner; and<sup>1077</sup>
  - iii. The quality of the development is not diminished.
- (e) If the requested Variance is to the standards in Section 11-04-011, *Signs*:
  - i. It shall not have the effect of permitting any type of sign that is prohibited in that zoning district; and
  - ii. The existence of nonconforming signs in the vicinity surrounding the property site shall not be cited as a hardship or used as justification for a special circumstance supporting the application.

#### 4. Type 4 Major Decisions by City Council<sup>1078</sup>

##### A. Annexation of Land and Related Zoning Map Amendment<sup>1079</sup>

###### (1) Applicability

- (a) An Annexation is required to expand the corporate boundary of the City.
- (b) The City shall limit its annexation to those lands within its Area of City Impact. If Boise City wishes to annex lands outside of its Area of City Impact, it shall first renegotiate its Area of City Impact Boundary with Ada County in accord with Idaho Code 67-6526(d) unless renegotiation is not required pursuant to Idaho Code 50-222, Annexation by Cities, Category A.
- (c) The Planning Director shall determine into which of the three following categories an application request falls:

<sup>1076</sup> Text reading "or an exceptional circumstance related to the property" was not carried forward in response to staff request that these criteria more closely match those in the LLUPA. Provision that the hardship not be caused by the property owner was added based on standard variance criteria used in many other communities.

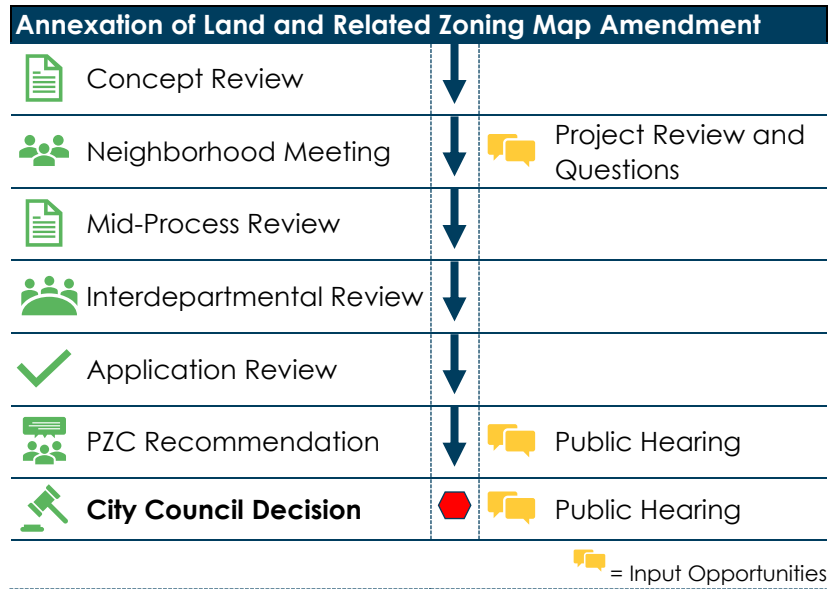
<sup>1077</sup> Current criteria that the spirit and intent of the Subdivision regulations are preserved was deleted as too vague to guide these types of minor site-specific decisions. Current criteria for consistency with the Comprehensive Plan was deleted because Variances are by their nature permitted deviations from the rules designed to implement the Comprehensive Plan.

<sup>1078</sup> Throughout this Section, several findings for approval requiring no adverse impacts have been revised to avoid material impacts and to allow the appointed body to approve those applications that mitigate adverse impacts to the maximum extent practicable or to determine that the public benefits of the project outweigh any impacts that have not been mitigated.

<sup>1079</sup> Current 11-03-04.15 unless otherwise noted. Content has been reorganized to follow parallel structure to other specific procedures.

- i. Category A annexations are those in which:
  - A. All private landowners raise no objection to annexations; or
  - B. Residential enclaved lands of less than 100 privately owned parcels, irrespective of surface area, that are surrounded on all sides by:
    - (i) Lands within the City;
    - (ii) Lands within the City's limits and by lands for which owner approval shall be given pursuant to Section 11-05-05.4.A(3)(b)i; or
    - (iii) Lands within the City and by the boundary of the city's Area of City Impact.
  - C. Category B annexations are those in which:
    - (i) The subject lands contain less than 100 separate private ownerships and platted lots of record and where not all such landowners have consented to annexation;
    - (ii) The subject lands contain more than 100 separate private ownerships and platted lots of record and where landowners owning more than 50 percent of the area have evidenced their consent to annexation at the outset of the annexation process; or
    - (iii) The lands are the subject of a development moratorium or a water or sewer connection restriction imposed by state or local health or environmental agencies; provided such lands shall not be counted for purposes of determining the number of separate private ownerships and platted lots of record aggregated to determine the appropriate category.
  - D. Category C annexations are those in which the subject lands contain more than 100 separate private ownerships and platted lots of record and where landowners owning more than 50 percent of the area of the subject private lands have not evidenced their consent to Annexation at the outset of the Annexation process.

(2) Procedure<sup>1080</sup>



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.A.
- (b) A request for the Annexation of property into the City may be initiated by the Council, the PZC, or by property owners or holders of valid purchase interest.<sup>1081</sup> When the Annexation request is initiated by the property owner, the PZC may expand or modify the Annexation request.
- (c) For Category A Annexations, the City may initiate the planning and zoning procedures set forth in Chapter 65, Title 67, Idaho Code, to establish the Comprehensive Planning policies, where necessary, and zoning classification of the lands to be annexed.
- (d) A request for Annexation shall include evidence of consent to Annexation. Prior consent to annex shall be deemed given when consent is evidenced by written authorization or approval executed by the owner or the owner's authorized agent.
- (e) In Category B and C Annexations, valid consent to annex is implied for the area of lands connected to a water or waste water collection system operated by the City if the connection was requested in writing by the owner, or the owner's authorized agent, or completed before July 1, 2008.
- (f) In Category C Annexations:
  - i. Following completion of all procedures required for consideration of a Category B Annexation, but prior to enactment of an annexation ordinance and upon an

<sup>1080</sup> Content reorganized. Per guidance from City Attorney's office, although Idaho 50-222(5) cites minor differences in procedure between the three categories of annexation, in practice Boise provides extra procedure that allows the same procedures for all three.

<sup>1081</sup> Clarified "purchase" as "purchase interest."

affirmative action by the Council, the city shall mail notice to all private landowners owning lands within the area to be annexed, exclusive of the owners of lands that receive water or sewer service and owners of lands that are subject to a recorded consent to annex. Such notice shall invite property owners to either give written consent or express written opposition to the Annexation, include a description of how that consent or opposition can be made and where it can be filed, and inform the landowner where the entire record of the subject Annexation may be examined. Such mailed notice shall also include a legal description of the lands proposed for Annexation and a simple map depicting the location of the subject lands.

- ii. Each landowner desiring to consent to or oppose the proposed Annexation shall submit the consent or opposition, in writing, to the City Clerk by a date specified in the notice, which shall not be sooner than 21 days after the date of the mailing of such notice.
- iii. After the date specified in the notice for receipt of written consent or opposition, the City Clerk shall compile and present to the Council a report setting forth the total physical area sought to be annexed and the total physical area of the lands, as expressed in acres or square feet, whose owners have consented in writing to the Annexation, plus the area of all lands receiving water or sewer service from the city and the area of all lands subject to a recorded consent to annex.
- iv. Objections to the proposed Annexation shall be considered, except that:
  - A. Objections received after the conclusion of the 21-day period shall not be considered unless the late objection is due to the City's failure to follow the procedures provided in this Subsection (f).
  - B. Objections received from owners of lands subject to a recorded consent to annex, or from owners receiving water or sewer service from the City, shall not be considered objections for purposes of this Subsection (f) .
  - C. Upon receiving the City Clerk's report, the Council shall review the report and may thereafter confirm whether consent was received from the owners of a majority of the land areas and those providing written consent, in addition to all lands subject to the implied consent provisions set forth herein and those subject to consent of record in the office of the Ada County Recorder. The results of the report shall be reflected in the minutes of the Council.
  - D. If the report, as accepted by the Council, confirms that owners of more land area have consented to Annexation than oppose such Annexation, the Council may enact an ordinance of Annexation, that shall be published and become effective according to the terms of the ordinance.
  - E. If the report confirms that owners of more land area oppose Annexation than consent to such Annexation, the Category C Annexation shall not be authorized.
- (g) Written consent to annex lands, if recorded in the Ada County Recorder's Office, shall be binding upon subsequent purchasers, heirs, or assigns of lands addressed in the

consent. Lands need not be contiguous or adjacent to the city limits at the time the landowner consents to annexation for the property to be subject to a valid consent to annex; provided however, no annexation of lands shall occur, irrespective of consent, until such land becomes contiguous or adjacent to Boise City.

- (h) For all categories of Annexation, compliance with the notice and hearing procedures governing a zoning district boundary change as set forth in Section 67-6511, Idaho Code, on the question of whether the property should be annexed and, if annexed, the zoning designation to be applied to the property; provided however, the initial notice of public hearing concerning the question of Annexation and zoning shall be published in the official newspaper of the City and mailed by first class mail to every property owner with lands included in such Annexation proposal not less than 28 days prior to the initial public hearing.
  - (i) All public hearing notices shall establish a time and procedure by which comments concerning the proposed Annexation may be received in writing and heard and, additionally, public hearing notices delivered by mail shall include a one page summary of the contents of the City's proposed Annexation plan and shall provide information regarding where the Annexation plan may be obtained without charge by any property owner whose property would be subject to the Annexation proposal.
  - (j) After considering the written and oral comments of property owners whose lands would be annexed and other affected persons, the City Council may proceed with the enactment of an ordinance of Annexation and zoning.
  - (k) The decision to annex shall conclude with the passage of an ordinance of Annexation.
  - (l) In accordance with Idaho Code 67-6526(d), a renegotiation may be initiated by the Council or the Board of Ada County Commissioners.
- (3) Findings for Approval**
- (a) The PZC shall recommend approval of the Annexation and zoning, or approval with conditions, if it determines that the Annexation will:
    - i. Incorporate the Boise sewer planning area;
    - ii. Honor negotiated area of impact agreements;
    - iii. Attempt to balance costs of services with anticipated revenues; and
    - iv. Promote other goals of population balance, contiguous development, and prevention of costs due to non-contiguous development.<sup>1082</sup>
  - (b) The City Council shall approve the Annexation and rezoning, or approve it with conditions, if it determines that the Annexation is for the public convenience or necessity or for the general welfare and that the following criteria are met:
    - i. For a Category B Annexation:
      - A. The lands are contiguous or adjacent to the city limits and lie within the Area of City Impact.
      - B. Land division of parcels to be annexed meets the following criteria:

<sup>1082</sup> Updated from "leap frog development."

- (i) The land is laid off into lots or blocks containing not more than five acres of land each, whether the same shall have been or shall be laid off, subdivided, or platted in accordance with any statute of the State of Idaho or otherwise, or whenever the owner or proprietor or any such person by or with their authority has sold or begun to sell off such contiguous or adjacent lands by meets and bounds in tracts not exceeding five acres, or whenever the land is surrounded by the city.
  - (ii) Splits of ownership that occurred prior to January 1, 1975, and that were the result of placement of public utilities, public roads or highways, or railroad lines through the property shall not be considered as evidence of an intent to develop such land and shall not be sufficient evidence that the land has been laid off or subdivided in lots or blocks.
  - (iii) A single sale after January 1, 1975, of five acres or less to a family member of the owner for the purpose of constructing a residence shall not constitute a sale within the means of this Section. For purposes of this Section, "family member" means a natural person or the spouse of a natural person who is related to the owner by blood, adoption, or marriage within the first degree of consanguinity.
- C. A written Annexation Plan has been prepared and published that is appropriate to the scale of the Annexation contemplated and includes, at a minimum, the following elements:
  - (i) The manner of providing tax-supported municipal services to the lands proposed to be annexed;
  - (ii) The changes in taxation and other costs, using examples, that would result if the subject lands were to be annexed;
  - (iii) The means of providing fee-supported municipal services, if any, to the lands proposed to be annexed;
  - (iv) A brief analysis of the potential effects of annexation upon other units of local government that currently provide tax-supported or fee-supported services to the lands proposed to be annexed; and
  - (v) The proposed future land use plan and zoning designations, subject to public hearing, for the lands proposed to be annexed.
- D. In addition to the criteria set forth elsewhere in this Section, Annexation of the following lands must meet the following requirements:
  - (i) Property owned by Ada County or any entity within the County, that is used as a fairgrounds area under the provisions of chapter 8, Title 31, Idaho Code, or chapter 2, Title 22, Idaho Code, shall have the consent of a majority of the Board of County Commissioners of Ada County; and
  - (ii) Property owned by a nongovernmental entity that is used to provide outdoor recreational activities to the public and that has been designated as a planned unit development of fifty acres or more and does not



require or use any city services shall have the express written permission of the nongovernmental entity owner.

- ii. If the City Council finds that the criteria in Subsection i above are met, the Council shall find and place in the minutes of the Council meeting at which the Annexation is approved that:
  - A. The land to be annexed meets the applicable requirements of this Section and does not fall within the exceptions or conditional exceptions contained in this Section 11-05-05.4.A.
  - B. The Annexation would be consistent with the public purposes addressed in the Annexation Plan prepared by the City.
  - C. The Annexation is reasonably necessary for the orderly development of the City.
  - D. If railroad rights-of-way property are included in the Annexation, property within the city limits adjoins or will adjoin both sides of the railroad rights-of-way.
- iii. For a Category C Annexation:
  - A. The findings for approval of a Category B Annexation have been met; and
  - B. Consent to the Annexation as required by Section 11-05-05.4.A(2)(f) has been obtained.

## **B. Code Adoption or Amendment<sup>1083</sup>**

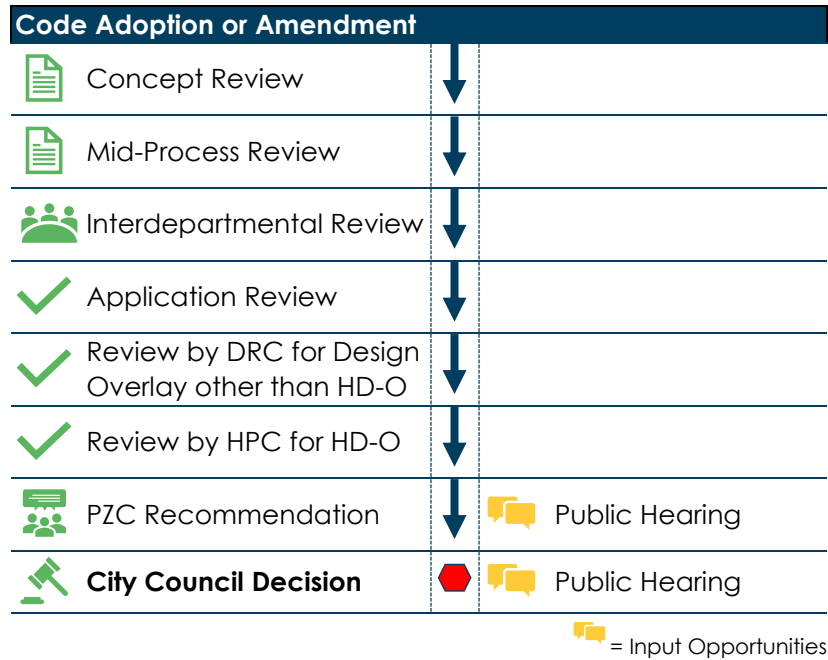
### **(1) Applicability**

This procedure applies to all applications to adopt a replacement for this Code or an amendment to this Code. A Code Adoption or Amendment is required when Council proposes the adoption of a Code or amendments to this Code to reflect trends in development or regulatory practices, expand, modify or add requirements for development in general or to address specific development issues, or to clarify or modify procedures for processing development.<sup>1084</sup>

<sup>1083</sup> Current 11-03-04.1 unless otherwise noted. Added provisions for the adoption of a new Code.

<sup>1084</sup> Expanded applicability statement to include potential reasons for Code Text Amendments.

(2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.B.
- (b) An application for a Code Adoption or Code Amendment may only be filed by a member of City Council or the Planning Director.<sup>1085</sup>
- (c) In the case of a Code Amendment to establish a Character Protection, or Design Review Overlay District<sup>1086</sup>, the City may require the HPC, DRC, or other board or commission, to review the application and make a recommendation.
- (d) The PZC hearing shall be within 60 days after submittal of a complete application.

(3) Findings for Approval

The PZC shall recommend approval or approval with conditions, and the Council shall approve the application or approve it with conditions, if the proposed Code or Code amendment:

- (a) Complies with and will help implement the Comprehensive Plan; and
- (b) Is required for public convenience or general welfare.

C. Comprehensive Plan Adoption or Amendment<sup>1087</sup>

(1) Applicability

This Section applies to all applications proposing to adopt a new Comprehensive Plan or make an amendment to the existing Comprehensive Plan, including but not limited to

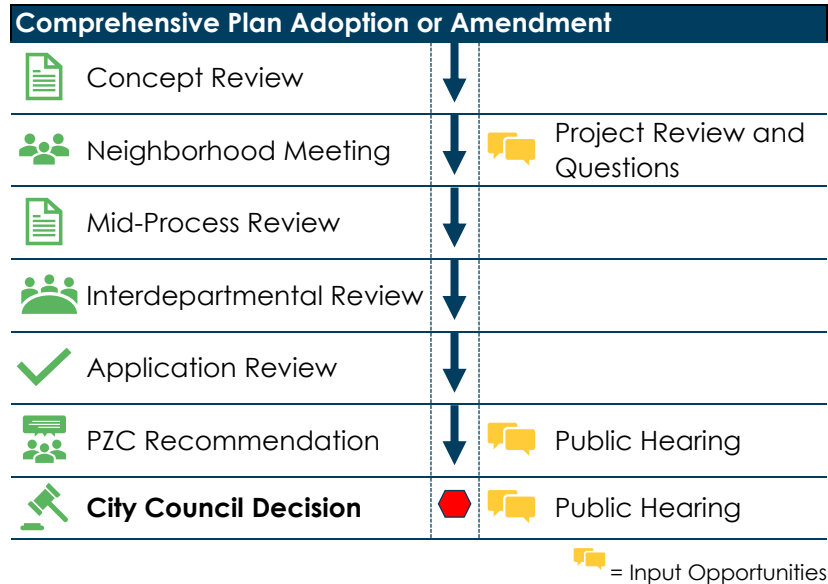
<sup>1085</sup> Expanded to include an application by the Director, to reflect current practice.

<sup>1086</sup> Replaced "conservation district."

<sup>1087</sup> Current 11-03-04.16 unless otherwise noted. Added provisions for the adoption of a new Comprehensive Plan.

applications to adopt or amend the Land Use Plan component of the Comprehensive Plan for the City.

**(2) Procedure**



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.C.
- (b) Any person may file an application for a Comprehensive Plan Amendment at any time, unless City Council has established by resolution a minimum interval between consideration of requests to amend, which interval shall not exceed six months.<sup>1088</sup>
- (c) The PZC may recommend amendments to the Land Use Map component of the Comprehensive Plan not more frequently than every six months. Amendments to the text of the plan may be recommended by the PZC at any time.
- (d) The Planning Director shall prepare a report indicating:
  - i. Whether the proposed amendment is consistent with the other elements of the Comprehensive Plan;
  - ii. The predicted effect of the proposed development on the future growth of the city and the existing goals, objectives, and policies of the Comprehensive Plan; and
  - iii. Listing any revisions to this Code that would be needed to implement the proposed amendment.
- (e) A Comprehensive Plan Adoption or Amendment shall become effective when enacted by resolution by the Council.

<sup>1088</sup> From Idaho Code 67-6509(d), at request of City Attorney.

**(3) Findings for Approval**

The PZC shall recommend approval or approval with conditions, and the Council shall approve the application or approve it with conditions, if it complies with the following criteria:

**(a) Comprehensive Plan Adoption<sup>1089</sup>**

The Comprehensive Plan promotes the long term economic, social, and environmental health of the City and protects the public health, safety, and welfare of the citizens of Boise City.

**(b) Comprehensive Plan Amendment**

The amendment:

- i. Is required for the public convenience or necessity, or for the general welfare of the community;
- ii. Is necessary to address changes in conditions within the community that have occurred since the Comprehensive Plan was adopted or is necessary to correct one or more goal, objective, or policy that exist in the plan;
- iii. Is consistent with and will further the goals, objectives, and policies of the Comprehensive Plan, unless it explicitly modifies those goals, objectives, and policies;
- iv. Will not create inconsistencies between the goals, objectives, and policies within or between any chapter of the Comprehensive Plan;
- v. Will not place an undue burden on transportation or other public facilities in the planning area, and does not adversely impact the delivery of services by any political subdivision providing services;<sup>1090</sup> and
- vi. If the amendment is to the Land Use Plan, the amendment is consistent with the other elements of the Comprehensive Plan and the Comprehensive Plan land use map, or where the other components of the plan are changed to create internal consistency.

**D. Development Agreement<sup>1091</sup>****(1) Applicability**

- (a) This procedure applies to all applications to approve a Development Agreement related to this Code.
- (b) A Development Agreement may be submitted by the applicant or may be required by PZC or City Council in connection with a Zoning Map Amendment pursuant to Section 11-05-05.4.J after a determination has been made that a Zoning Map Amendment application does not meet required findings without additional restrictions to those imposed by the proposed zoning district.
- (c) Restrictions contained in a Development Agreement are in addition to all of the requirements of this Code.

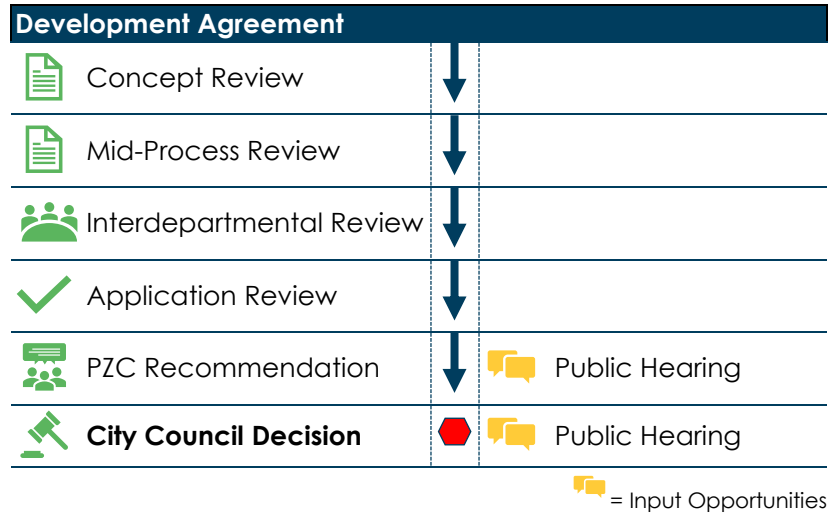
<sup>1089</sup> New.

<sup>1090</sup> Text slightly revised to better align with LLUPA, at request of City Attorney.

<sup>1091</sup> Current 11-03-04.2 unless otherwise noted.

- (d) Nothing in this Section shall be construed as relieving the property that is subject to Development Agreement restrictions from further compliance with all other permit and Code requirements applicable because of the zoning designation of the property.

(2) Procedure<sup>1092</sup>



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.D.
- (b) A request to enter into a Development Agreement may be:
- Submitted by a Zoning Map Amendment applicant;
  - Required by Council at a Zoning Map Amendment hearing; or
  - Required by Council upon recommendation from the PZC.
- (c) If Subsections ii or iii above apply, time limits may be stayed if so directed by the Council or PZC.
- (d) When requested by an applicant, the PZC shall conduct a hearing and forward a recommendation to the Council.
- (e) The Development Agreement shall expire as indicated within the agreement or as described below, unless it is not recorded within one year of the date of approval, in which case the agreement shall automatically expire and Council may initiate a Zoning Map Amendment to return the property to the prior zoning district or in the case of an initial zoning district at Annexation, to a zoning district deemed appropriate in light of the purposes of this Code and the Comprehensive Plan.
- (f) A Development Agreement may be amended or terminated by the Council, after public hearing, for failure to comply. Upon termination, the Council may rezone the

<sup>1092</sup> At the suggestion of City Attorney's office, (1) provision for remand to PZC if Council determines a Development Agreement is needed was deleted as impractical, and (2) provision that PZC recommendation for an Agreement results in re-advertising for another hearing on the Agreement was also deleted, since Idaho law does not require a PZC hearing on the Agreement.

property to the prior zoning district or in the case of an initial zoning district at Annexation, to a zoning district deemed appropriate.

### (3) Findings for Approval

- (a) The PZC shall recommend and Council shall approve the application, or approve it with conditions, if the Development Agreement does not grant a land use or property right or privilege to the applicant and is necessary to:
  - i. Bring the Zoning Map Amendment application into compliance with the Comprehensive Plan or this Code;
  - ii. Provide infrastructure needed to support or service the proposed development; or
  - iii. Mitigate potential impacts of development under the proposed Zoning Map Amendment on the surrounding neighborhoods.

## E. Major Historic Preservation Actions<sup>1093</sup>

This section consolidates several procedures related to historic resources in the City, each of which requires action by the HPC and each of which may require further action by City Council.

### (1) Demolition or Change in Use of a Historic Landmark<sup>1094</sup>

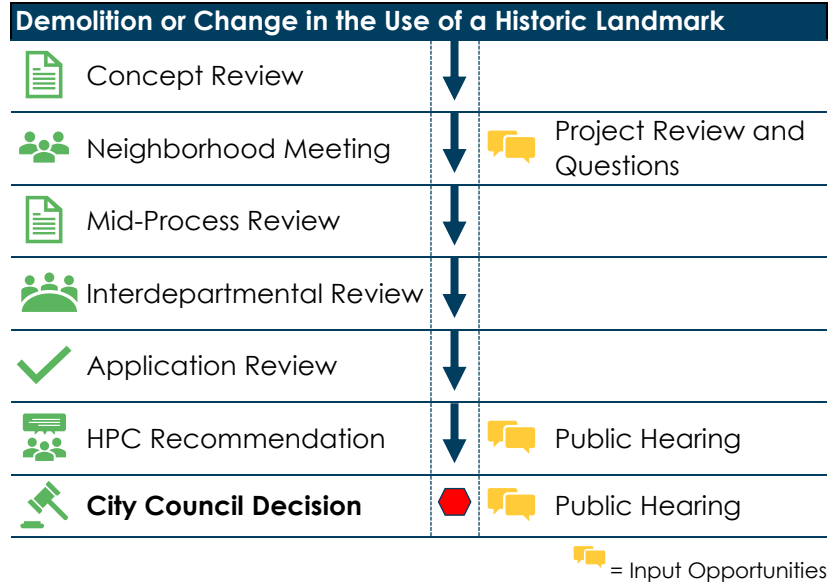
#### (a) Applicability

A Demolition or Change in Use of a Historic Landmark is required when a Historic Landmark designated by ordinance that is not part of a Historic District, is proposed to be demolished, materially altered, remodeled, relocated, or put to a different use.

<sup>1093</sup> Consolidates current 11-05-09.6, 8, 9, 10, and 11-07-07. These substantive content of the procedures is carried forward, but text has been simplified and organized to follow a parallel structure to the other specific procedures. All instances of "the Commission" have been replaced with "the HPC." All instances of "historic district – residential" have been replaced with "Residential Historic District."

<sup>1094</sup> Current 11-05-09.10 unless otherwise noticed.

(b) Procedure



- i. All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.E(1).
- ii. A request to demolish or change the use of a Historic Landmark shall be submitted to the Historic Preservation Commission (HPC).
- iii. After 180 days written notice of the owner's proposed action has been given to the HPC, the HPC may negotiate with the owner and with any other parties to try to find a means of preserving the property. The HPC may enter into negotiations with the owner for the acquisition by gift, purchase, or exchange of the property or any interest in the property during this 180 day period or any such action as is reasonably necessary or appropriate for the continued preservation of the property.
- iv. The HPC may reduce the waiting period required by this Subsection in any case where the owner would suffer extreme hardship unless a reduction in the required period were allowed. The HPC shall have the discretionary authority to waive all or any portion of the required waiting period, provided that the alteration, remodeling, relocation or change of use is undertaken subject to conditions agreed to by the HPC insuring the continued maintenance of the historical, architectural, archeological, or cultural integrity and character of the property.
- v. The HPC shall notify, in writing, property owners within a 300 foot radius of the Historic Landmark and the registered Neighborhood Association of the request to demolish, alter, remodel, relocate or change the use of the Historic Landmark

and may allow such owners and the registered Neighborhood Association to provide input within the 180 day waiting period.

**(c) Findings for Approval**

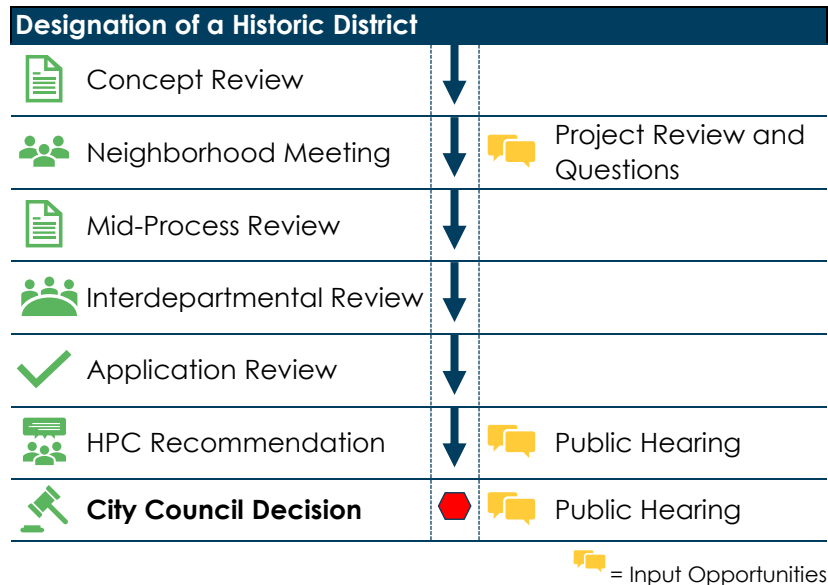
The PZC shall recommend approval or approval with conditions, and the City Council shall approve the application or approve it with conditions if it finds that the demolition or change of use will not materially compromise the historical integrity or value of the HD-O district in which it is located, or if it determines that continuation of the current structure and use would result in unreasonable economic harm to the property owner.<sup>1095</sup>

**(2) Designation of Historic Districts<sup>1096</sup>**

**(a) Applicability**

- i. A Designation of Historic Districts review is required in order to establish a Historic District.
- ii. The HPC, either on its own initiative or upon the request of the City Council, or upon the request of one or more owners of property in the area of a proposed Historic District, may recommend the designation of one or more Historic Districts.

**(b) Procedure**



- i. All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.E(2).
- ii. Prior to recommending designation the HPC shall conduct studies, research and investigations based on the relevant criteria given in Section 11-02-07.2.B(3),

<sup>1095</sup> New. Reworded for clarity.

<sup>1096</sup> Current 11-05-09.6.B-I unless otherwise noted.



*Criteria for Designation*, regarding buildings, sites, structures and objects of such proposed Historic District or Districts.

- iii. The HPC shall prepare a report containing recommendations concerning the area or areas to be included in the proposed Historic District or Districts.
- iv. Copies of the report shall be transmitted for review and recommendation to the PZC.
- v. Not less than 60 days after the date of transmittal of such report to the PZC, the HPC shall hold a public hearing regarding the proposed District.
- vi. Notice of the time, place and purpose of such hearing shall be given at least 15 calendar days prior to the hearing by one publication in a newspaper of general circulation in the city.<sup>1097</sup>
- vii. Notice of the hearing shall be given to the owners of all properties to be included in the District or Districts and to the registered Neighborhood Association at least 14 calendar days prior to the hearing.
- viii. After conducting the public hearing, the HPC may vote to proceed with the District, and shall submit a final report with its recommendations and a draft ordinance to the City Council.
- ix. If the HPC recommends approval or approval with conditions, a public hearing before City Council is required pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.
- x. Upon approval by the City Council of the ordinance establishing the Historic District, the zoning maps shall be changed to reflect the addition of the "HD-O" Historic Design Overlay zoning district.
- xi. Upon passage of the ordinance, the owners of each property within the designated Historic District, and the registered Neighborhood Association shall be given written notification of the Council's action.
- xii. The HPC shall notify City departments and other agencies as required under Section 11-02-07.2.B(10).
- xiii. One copy of the ordinance creating the District shall be filed in the office of the Ada County Recorder.
- xiv. The HPC shall maintain a register of Historic Districts as required under Section 11-02-07.2.B(11).
- xv. Following designation, and physical changes in the District that are approved by a Minor or Major Certificate of Appropriateness pursuant to Sections 11-05-05.2.B or 11-05-05.3.A shall be added to the report/survey prepared to support the designation process. Updates are not considered amendments to the Historic District.

<sup>1097</sup> Notice period changed from 14 days for internal consistency with other notice provisions.

**(c) Findings for Approval**

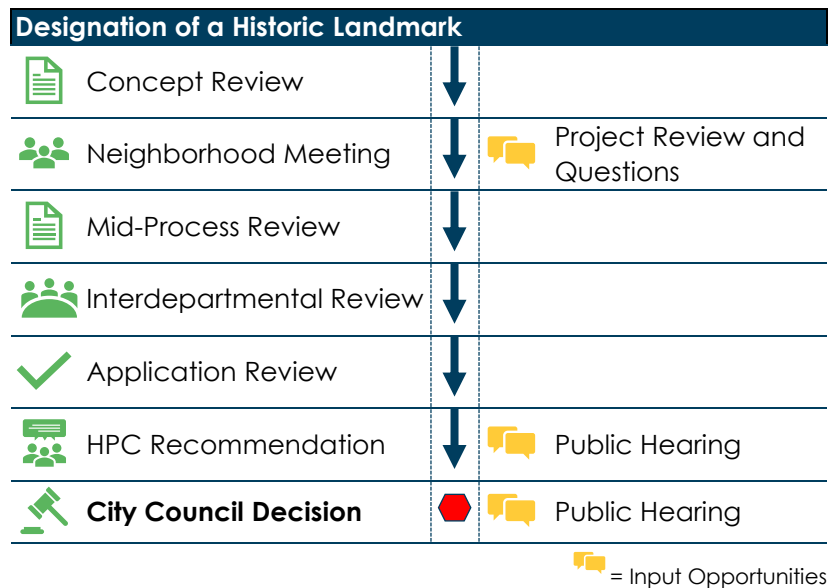
The HPC shall recommend approval or approval with conditions and the Council shall approve the application, or approve it with conditions, if the proposed Designation of a Historic District complies with the criteria set forth in Section 11-02-07.2.B(3), *Criteria for Designation*.

**(3) Designation of Historic Landmarks<sup>1098</sup>**

**(a) Applicability**

- i. A Designation of Historic Landmarks review is required to officially designate a Historic Landmark.
- ii. The HPC, either on its own initiative or upon the request of the City Council, or upon the request of the owner of the property proposed to be designated, may recommend the designation of a Historic Landmark.

**(b) Procedure**



- i. All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.E(3).
- ii. Prior to recommending designation the HPC shall conduct studies, research and investigations based on the relevant criteria given in Section 11-02-07.2.B(3), *Criteria for Designation*.
- iii. The HPC shall prepare a report containing recommendations concerning the Historic Landmark proposed to be designated and a draft of the designating ordinance to the City Council. The report shall include:

<sup>1098</sup> Current 11-05-09.8 unless otherwise noted.

- A. Comments regarding the suitability of the Historic Landmark for preservation or restoration.
  - B. A statement regarding the appropriateness of an adaptive or alternative use of the Historic Landmark.
  - C. A statement regarding the administrative and financial responsibility of the person or organization proposing to undertake all or a portion of the cost of acquisition, restoration, maintenance, operation or repair, or the cost of adaptive or alternative use of the property to the extent that any, such considerations apply to the property proposed for designation.
  - D. A statement regarding the appraised value of the property if the owner of the property proposed for designation has not consented to such designation.
- iv. If the HPC recommends approval or approval with conditions, a public hearing before City Council is required pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.
  - v. For each designated Historic Landmark, the designating ordinance shall require the waiting period prescribed by Section s to be observed prior to its demolition, material alteration, remodeling, or removal. The designating ordinance shall also provide guidelines for a suitable sign or marker on or near the Historic Landmark indicating that the property has been so designated.
  - vi. For properties designated as a Historic Landmarks and located within a local Historic District, the portions of this ordinance pertaining to the Districts takes precedence over the 180 day waiting period for demolition of the structure.
  - vii. For state or federal properties that are designated as Historic Landmarks, the designation is an honorary effort and the City acknowledges that the repair, maintenance, demolition or remodel of the structure is not within its jurisdiction.
  - viii. Upon passage of the designating ordinance, the City shall provide the owners and occupants of each designated Historic Landmark written notification of the Council's action, and one copy of the designating ordinance shall be filed in the office of the Ada County Recorder.
  - ix. The HPC shall give notice of such designation to the Ada County Tax Assessor.

#### (c) Findings for Approval

The HPC shall recommend approval or approval with conditions and the Council shall approve the application, or approve it with conditions, if the proposed Designation of a Historic Landmark complies with the following:

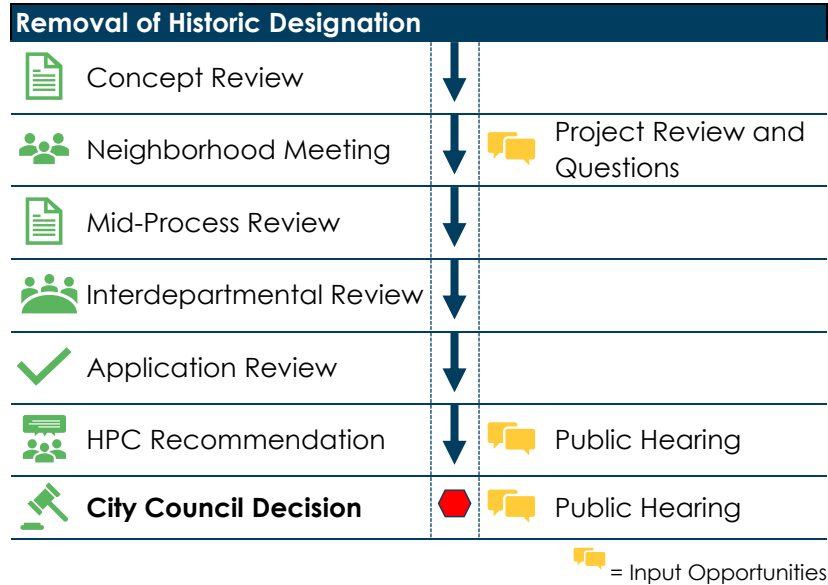
- i. The building, site, structure or object proposed for designation shall meet one or more of the criteria required in Section 11-02-07.2.B(3), *Criteria for Designation*; and
- ii. The building, site, structure or object proposed for designation meets the criteria established for inclusion in the National Register of Historic Places, as such criteria are applied to historic properties in the State by the Idaho Historic Sites Review Board.

**(4) Removal of Historic Designation<sup>1099</sup>**

**(a) Applicability**

A Removal of Historic Designation review is required to rescind the designation by ordinance of all or part of a HD-O district or a property within an HD-O district.

**(b) Procedure**



- i. All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.E(4).
- ii. The property owner or owner's representative, or the HPC, shall submit an application for removal of designation that includes a detailed explanation as to why the property (or properties) does not meet the criteria under which the district was adopted as outlined under Section 11-02-07.2.B(3), *Criteria for Designation*.
- iii. Prior to approval or denial of the application for removal of designation, the HPC shall schedule a public hearing on the request and notify, in writing, each property owner within the affected District if for removal of the entire Historic District or 300 foot radius from the property boundaries for an individual property removal within the district and the registered Neighborhood Association at least 15 calendar days prior to the hearing. Notice of the time, date, place and purpose of such hearing shall also be published at least 15 calendar days prior to such hearing in a newspaper of general circulation within the city.<sup>1100</sup>
- iv. If the HPC determines the proposed removal of designation is appropriate, it shall approve such application and shall prepare a report containing such

<sup>1099</sup> Current 11-05-09.9 unless otherwise noted.

<sup>1100</sup> Notice period extended from 14 days for internal consistency with other notice provisions.

recommendation of removal of designation and a draft of a proposed ordinance removing such designation to the City Council.

- v. If the HPC approves the application, a public hearing before City Council is required pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing*.
- vi. If the HPC determines that the application for removal of designation should not be recommended, it shall place upon its records the reason for such determination and shall notify the applicant of such determination and a copy of its reasons and its recommendations, if any, as appearing in the records of the HPC.<sup>1101</sup>
- vii. Upon approval by the City Council of the ordinance, the zoning map shall be changed to reflect the removal of all or part of the HD-O district.
- viii. Upon approval of the ordinance, the City shall provide the owners and occupants of the HD-O district or property within the district for which designation was removed written notification of Council's action.
- ix. One copy of the ordinance shall be filed in the office of the Ada County Recorder.
- x. The HPC shall give notice of such removal of designation to the Ada County Tax Assessor and to the Boise office of the Internal Revenue Service.

#### (c) Findings for Approval<sup>1102</sup>

The HPC shall recommend approval or approval with conditions and the City Council shall approve the application, or approve it with conditions, if the proposed Removal of Historic Designation complies with the following:

- i. For removal of the designation of a building, site, structure, or object included within a designated Historic District, or designated as a Historic Landmark:
  - A. The building, site, structure, or object has ceased to comply with the criteria for designation in Section 11-02-07.2.B(3); or
  - B. The building, site, structure, or object no longer exhibits the characteristics that qualified the property for inclusion within a Historic District.
- ii. For removal of HD-O designation, the district has ceased to comply with the criteria for designation in Section 11-02-07.2.B(3).<sup>1103</sup>

#### (5) Creation or Expansion of Historic Street Lighting District<sup>1104</sup>

##### (a) Applicability

This procedure applies to all request to create a new Historic Street Lighting district, or to expand or reduce the area of an existing Historic Street Lighting district.

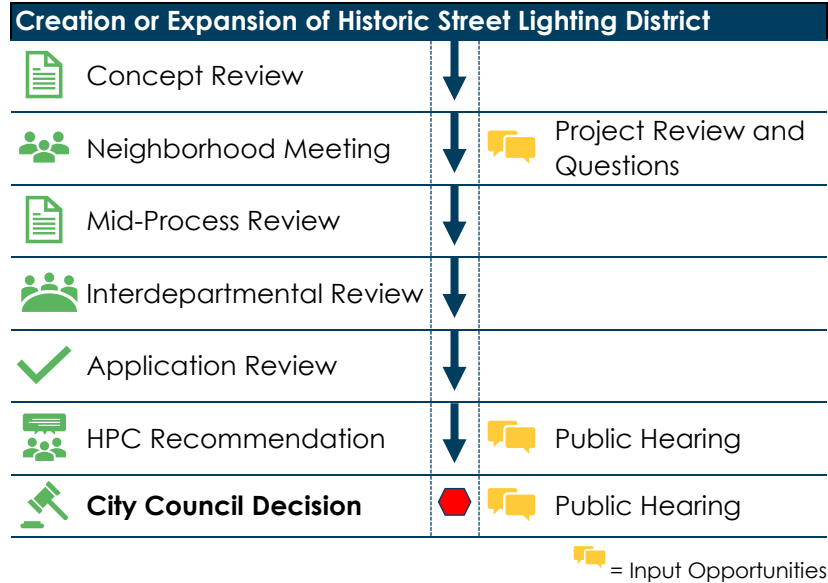
<sup>1101</sup> Separate appeal procedure from HPC denials of the application were not carried forward; standard appeal provisions apply.

<sup>1102</sup> Applied the HPC criteria for approval to City Council decision.

<sup>1103</sup> New.

<sup>1104</sup> Current 11-07-07.3 and 4. This section has not been reformatted with the parallel structure as other specific procedures. Text revised to also cover reduction in the area of a Historic Street Lighting District.

(b) Procedure



- i. All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.E(5).
- ii. Applications for inclusion in a Historic Street Light District shall be made in writing to the Director and the Public Works Director. The request will be forwarded to the Public Works Commission and the DRC for their recommendation to City Council.
- iii. No public hearing before the HPC or PZC is required.
- iv. City Council shall make a decision on the application following a public hearing.

(c) Findings for Approval

The Planning Director and Public Works Director shall recommend approval or approval with conditions, and City Council shall approve the application or approve it with conditions, based on consideration of the following factors:

- i. Historic characteristics of the proposed location;
- ii. Source and availability of funding of initial installation (both city and outside funding sources); and
- iii. Source and availability of funding for continued maintenance.

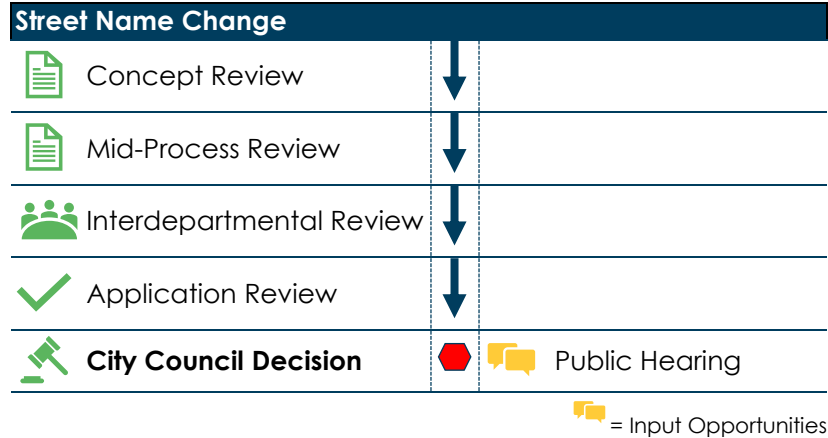
F. Street Name Change<sup>1105</sup>

(1) Applicability

This procedure applies to all applications to change the name of a street or other public right-of-way in the City for which the City has authority to establish official names.

<sup>1105</sup> Existing procedure codified for clarity.

(2) Procedure



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.F.
- (b) No recommendation or hearing before the PZC is required.

(3) Findings for Approval

The City Council shall approve the name change, or approve it with conditions, if it will not cause confusion between the proposed street name and a similar street name already used on a public street or right-of-way, and will not otherwise cause confusion to pedestrian, bicyclists, or motor vehicle drivers.













G. Subdivision Plat - Preliminary<sup>1106</sup>

(1) Applicability

A Preliminary Plat is required for all actions resulting in the division of land into smaller parcels for development, or the revision of existing platted land into different lots for development, except those actions exempt from these regulations by this Code or by state or federal law, or that meet the criteria for a Record of Survey pursuant to Section 11-05-05.2.J.

<sup>1106</sup> Current 11-03-04.4. unless otherwise noted.

(2) Procedure<sup>1107</sup>

| Subdivision Plat - Preliminary  |   |  |
|---|---|--|
|  Concept Review*   | ↓   |  |
|  Neighborhood Meeting*   | ↓   |  Project Review and Questions |
|  Mid-Process Review*   | ↓   |  |
|  Interdepartmental Review*   | ↓   |  |
|  Application Review  | ↓   |  |
|  PZC Recommendation  | ↓   |  Public Hearing               |
|  <b>City Council Decision</b>  |  |  Public Hearing               |
| <p>*For applications for a proposed subdivision that includes 40 or more lots or dwelling units</p> <p> = Input Opportunities</p> |   |  |

- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.G.
- (b) Concept Review, Mid-Process Review, and Interdepartmental Review shall be held in accordance with Section 11-05-04.2 when a proposed subdivision includes 40 or more lots or dwelling units.
- (c) A Neighborhood Meeting shall be held in accordance with Section 11-05-04.3.B, *Neighborhood Meeting* when a proposed subdivision includes 40 or more lots or dwelling units.
- (d) A Preliminary Plat application may be submitted with or without a Final Plat.
- (e) The 60-day limitation set forth in 11-05-04.6.A(1), *Timing of Decision* shall apply to the recommendation unless the applicant agrees to a longer period or there are extenuating circumstances or other associated development applications that should be considered at the same time, such as:
  - i. Annexation;
  - ii. Conditional Use Permit;
  - iii. Change to the Area of City Impact;
  - iv. Developments in the HD-O zoning district; and
  - v. ACHD or other critical agency conditions have not yet been received.

<sup>1107</sup> Condominiums are not reference in this Section because they are included as administrative decisions under Record of Survey. Deleted "Complete Application" provision specific to Subdivision Plat because there is now a provision in the General Procedures that applies.



- (f) Preliminary Plat approval shall expire if the applicant does not comply with the following:
  - i. Within two years of approval, the applicant shall obtain the City Engineer's signature on one or more Final Plats covering portions of the Preliminary Plat areas as evidence of conformance with this Code and the Council's conditions of approval.
  - ii. Where a Preliminary Plat is approved subject to a Conditional Use Permit and the Conditional Use Permit expires, the plat shall also expire.
- (g) Preliminary Plats may be phased and do not need time extensions provided that at least one phase of the plat is approved annually. For phased developments, City Council may modify or add conditions for phases submitted after two years following Preliminary Plat approval.
- (h) The City Council may grant an extension of a Preliminary Plat for up to one year, provided an application for extension is filed at least 20 days prior to the expiration of either the first two year period or a previous extension.

**(3) Findings for Approval**

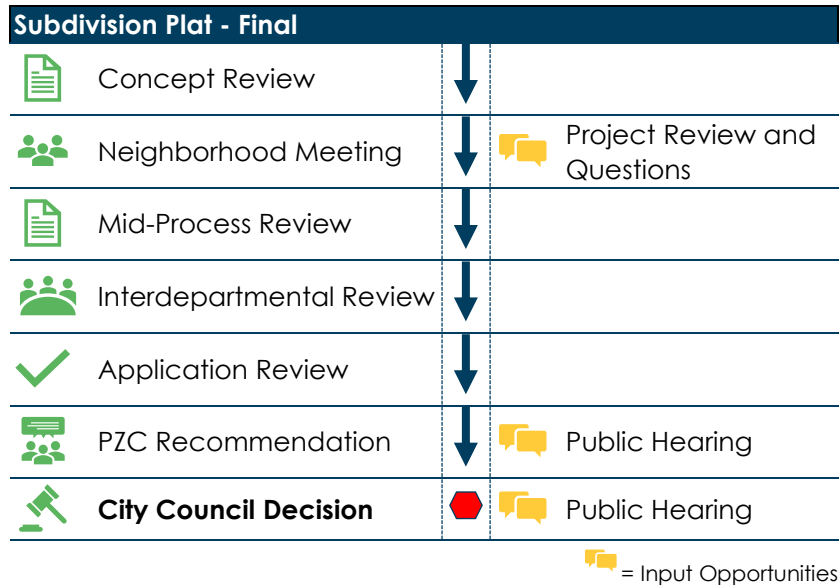
The PZC shall recommend approval or approval with conditions and the City Council shall approve the application, or approve it with conditions, if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* including but not limited to those standard in Section 11-04-04, *Subdivision Standards*.

**H. Subdivision Plat - Final**

**(1) Applicability**

- (a) This procedure is required to finalize a Preliminary Plat approved pursuant to Section 11-05-05.4.G.
- (b) No approved Preliminary Plat conveys to the property owner the right to install infrastructure or to sell or convey interests in lots, parcels, or tract based on descriptions of those lots, parcels, or tracts in the Preliminary Plat, until a Final Plat has been approved and recorded pursuant to this Section.

**(2) Procedure**



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* apply unless specifically modified by the provisions of this Section 11-05-05.4.H.
- (b) A Final Plat shall be prepared in accordance with Title 50, Chapter 13 of the Idaho Code and with this Code and shall be submitted within two years of approval of a Preliminary Plat.
- (c) The City Engineer shall review and sign the Final Plat if it conforms to the approved Preliminary Plat and any conditions imposed by City Council.
- (d) If approved by City Council, the applicant shall record the Final Plat with the Ada County Recorder within one year from date of the City Engineer's signature. If the applicant fails to record the Final Plat within that time period, as that period may be extended by Council in the case of phased projects, the approved Preliminary Plat shall lapse and shall no longer be valid.
- (e) No public hearing before the PZC is necessary before City Council approval of a Final Plat.
- (f) The City Council may grant an extension of a Final Plat for up to one year, provided an application for extension is filed at least 20 days prior to the expiration of either the first two year period or a previous extension. In granting a time extension, the City Council may modify or add conditions to the Final Plat to conform with adopted policies or Code changes since initial approval.

**(3) Findings for Approval<sup>1108</sup>**

The City Council shall approve the Final Plat if it conforms to the approved Preliminary Plat and any conditions imposed by City Council and has been signed by the City

<sup>1108</sup> New, to reflect current practice.

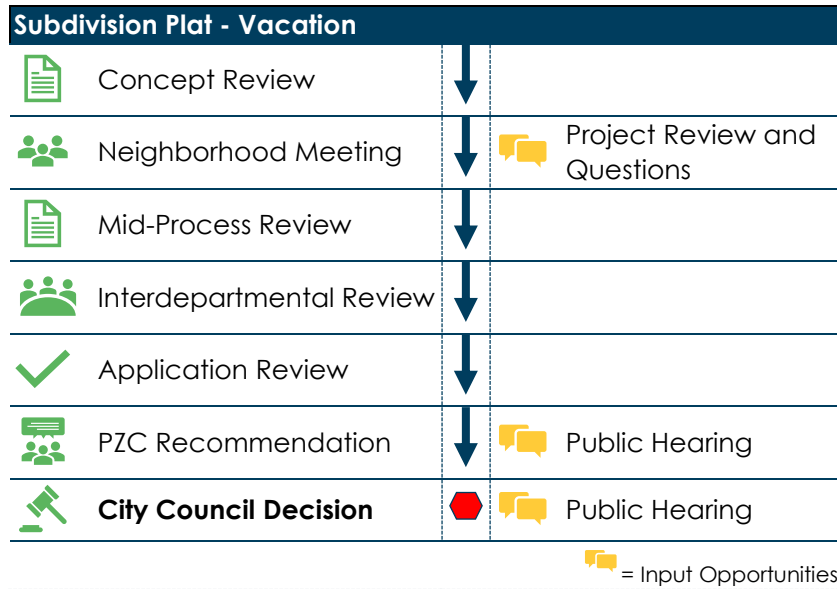
Engineer, a professional licensed surveyor, and all other City or governmental officials required to sign the Final Plat.

**I. Subdivision Plat - Vacation<sup>1109</sup>**

**(1) Applicability**

This procedure shall apply to all applications to vacate all or a portion of a recorded Final Plat or of a public street owned by the City.

**(2) Procedure**



- (a) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* apply unless specifically modified by the provisions of this Section 11-05-05.4.I.
- (b) A Vacation Plat showing the portion(s) of the recorded Final Plat shall be prepared in accordance with Title 50, Chapter 13 of the Idaho Code and with this Code, and shall indicate which lots, tracts, parcels, public streets and rights-of-way, and lands dedicated to the City or to another governmental or quasi-governmental agency, if any, are to be vacated.
- (c) The approval of a Vacation Plat shall not, by itself, result in the transfer of any lands dedicated to the City any governmental or quasi-governmental agency, to any other party. Transfer of any such lands to an owner other than the City shall require the adoption of an ordinance by City Council transferring such property or a separate action by the governing body of the governmental or quasi-governmental agency to which the Final Plat dedicated such lands.
- (d) If approved by City Council, the applicant shall record the Vacation Plat with the Ada County Recorder within one year from date of the City Council action. If the applicant fails to record the Vacation Plat within that time period, as that period may be

<sup>1109</sup> New.

extended by Council, the approved Vacation Plat shall lapse and shall no longer be valid.

- (e) No public hearing before the PZC is necessary before City Council approval of a Vacation Plat.

### (3) Findings for Approval<sup>1110</sup>

The City Council shall approve the application if it complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council*, and the following criteria:

- (a) Approval of the Vacation Plat will not deprive any property owner within or abutting the streets or rights-of-way of convenient access to their property, unless alternative access has been provided;
- (b) Approval of the Vacation Plat will not result in fragmenting open spaces, drainage facilities, or trails that the Comprehensive Plan or other adopted plans of the City recommend for connection or contiguity, unless an alternative way of providing the connection or connection has been provided; and
- (c) Approval of the Vacation Plat will not materially increase the costs to the City or other political subdivisions of providing services to lands remaining in the Final Plat or surrounding areas.

## J. Zoning Map Amendment (Rezoning, including Planned Unit Development)<sup>1111</sup>

### Commentary:

This Section addresses standard “rezoning” applications for a change to a new base or overlay district, as well as two special cases: (1) the approval of a Planned Unit Development – which (consistent with the Diagnostic recommendation) will now result in the creation of a new base zoning district, and (2) the approval of a Specific Plan District. In order to reduce confusion about the difference between PUDs and Specific Plan Districts, there are significant limits on the types of changes from Code provisions that can be included in a PUD.

### (1) Applicability

- (a) A Zoning Map Amendment is required to change zoning district boundaries, establish or eliminate zoning districts, change the zoning designation of a parcel, or to amend a Development Plan for a Planned Unit Development zoning district.<sup>1112</sup>
- (b) As an exception to Subsection (a), an application for a Zoning Map Amendment to create an HD-O district is not subject to this Section, but must instead comply with Section 11-02-07.2.B, *HD-O: Historic Design Overlay*.<sup>1113</sup>
- (c) If a Development Agreement is required pursuant to Section 11-05-05.4.D, *Development Agreement*, final action on the Zoning Map Amendment shall not occur before the Development Agreement has been approved by Council.<sup>1114</sup>

<sup>1110</sup> New.














<sup>1111</sup> Renamed from Rezone. Current 11-03-04.3 unless otherwise noted. Specific criteria for rezoning to T-2 district (11-04-06.1.F) has not been carried forward. Updated all references of “rezone” to “Zoning Map Amendment.”


<sup>1112</sup> Reference to Development Plan amendments related to a PUD zoning district is new.

<sup>1113</sup> Added for clarity.

<sup>1114</sup> New provision to clarify relationship of this procedure to Development Agreements.

(2) Procedure

| Zoning Map Amendment   |   |  |
|--|---|--|
|  Concept Review                                   | ↓   |  |
|  Neighborhood Meeting                             | ↓   |  Project Review and Questions |
|  Mid-Process Review                               | ↓   |  |
|  Interdepartmental Review                         | ↓   |  |
|  Application Review                               | ↓   |  |
|  Review by DRC for Design Overlay other than HD-O | ↓   |  |
|  Review by HPC for HD-O                           | ↓   |  |
|  PZC Recommendation                               | ↓   |  Public Hearing               |
|  <b>City Council Decision</b>                     |  |  Public Hearing               |

 = Input Opportunities

(a) Standard Base and Overlay Zoning Districts

(b) All applicable provisions of Sections 11-05-02, *Summary Table of Review and Decision-Making Procedures* and 11-05-04, *Common Procedures* for a Type 4 application apply unless specifically modified by the provisions of this Section 11-05-05.4.J.

(c) Planned Unit Development Districts (PUDs)<sup>1115</sup>

- i. All property included in the proposed PUD shall be under common ownership or control or shall be the subject of an application filed jointly by the property owners of all the property to be included.
- ii. An application for a Zoning Map Amendment to a PUD zoning district will only be accepted if the proposed PUD could not be developed using a combination of the base and overlay zoning districts listed in Chapter 11-02, *Zoning Districts*.
- iii. An application for a Zoning Map Amendment to a Planned Unit Development zoning district shall include a Development Plan. The Development Plan shall identify one of the base zoning districts listed in Chapter 11-02, *Zoning Districts* as the reference base district for each portion of the PUD and shall list the standards, variations, and requirements for the development that may diverge from the standards of this Code for that reference base district, as permitted by Section 11-02-06, *PUD: Planned Unit Development*.

<sup>1115</sup> New requirement to provide a Development Plan for a request for a Zoning Map Amendment to the PUD district.

- iv. Following approval of a Zoning Map Amendment for a Planned Unit Development district that includes design standards requirements that differ from those otherwise applicable under this Code, the new design requirements will be reviewed through Minor Design Review unless Council's action requires a different review process.

**(d) Specific Plan Districts<sup>1116</sup>**

- i. The PZC shall consider an application for a Zoning Map Amendment to a Specific Plan District and shall at the same time consider the proposed Specific Plan accompanying the application in accordance with Section 11-02-08, *Specific Plan Districts*.
  - ii. A Specific Plan District shall be noted on the zoning map by the designation "SP," followed by the number of the Specific Plan District based on order of adoption. The Specific Plan District may be either appended to the base zoning district as an overlay, or may be the primary zoning with no other base zoning district.
  - iii. A Specific Plan adopted by ordinance of the Council shall be administered as prescribed by the Council and as established by the provisions of the Specific Plan for review, approval, and amendment. Adopted Specific Plans shall be listed by name and number in Chapter 11-07, *Adopted Specific Plans* and shall be maintained on file with the Director.<sup>1117</sup>
- (e) If Council's action is protested by a petition signed by the owners of 50 percent or more of either the land included in the proposed Zoning Map Amendment or those within a 300 foot radius of the exterior boundaries of the land included in the proposed Zoning Map Amendment, a decision to approve the Zoning Map Amendment requires a vote of two-thirds of the Council.
- (f) A Zoning Map Amendment, including the establishment of a new overlay district, shall become effective when the Council adopts an ordinance amending the zoning classification.
- (g) Following the approval of each Zoning Map Amendment, including but not limited to the approval of a Planned Unit Development district, all development permitted in the new zoning designation shall be required to obtain all other permits and approval required for that type of development in this Code before applying for a Building Permit, unless the ordinance documenting Council's action waives one or more of those requirements.<sup>1118</sup>
- (h) If this Code does not require any other type of approval for uses, structures, or site features permitted or required in the new zoning district, approval of a Zoning Certificate shall be required before applying for a Building Permit.

<sup>1116</sup> Current 11-05-08.7.

<sup>1117</sup> Deleted requirement for the Specific Plan to be maintained as a bound and printed document. Current 11-05-08.7.B and C. Provisions in current 11-03-04.3.B(7)(c) requiring that Building Permits in Specific Plan Districts be consistent with approved Specific Plans was not carried forward, because Building Permit shall be consistent with approved zoning in all zoning districts.

<sup>1118</sup> New, to clarify that Zoning Map Amendments do not, by themselves, authorize construction under the new zoning districts, and that a Zoning Certificate is usually required to confirm that the specific proposed development complies with this Code.

**(3) Findings for Approval****(a) General<sup>1119</sup>**

If the application is for a Zoning Map Amendment to a district other than a PUD district or a Specific Plan District, the PZC shall recommend approval or approval with conditions and the Council shall approve the application or approve it with conditions if the application complies with the criteria in Section 11-05-04.6.A(3)(b), *Decision by Appointed Body or City Council* and the following criteria:

- i. One of the following criteria is met:
  - A. The Amendment is needed to correct a technical error in the current map (a change in the character of surrounding areas does not constitute an error in the map);<sup>1120</sup> or
  - B. The Amendment is needed because of changed conditions or circumstances in the surrounding area;
- ii. The proposed Amendment is in compliance with the Comprehensive Plan;
- iii. The proposed Amendment is in the best interests of the public convenience and general welfare, with particular consideration given to the effects of the proposed Amendment upon the ability of the political subdivisions providing public services to the property to deliver those services effectively and efficiently;<sup>1121</sup>
- iv. The size, scale, height, density, and multi-modal traffic impacts of the proposed initial zoning or rezoning are compatible with surrounding development or has been made compatible with surrounding development through a Development Agreement or conditions on the approval;<sup>1122</sup> and

**(b) Rezoning to a PUD District<sup>1123</sup>**

In addition to the criteria in Subsection (a) above, an application for a Zoning Map Amendment for a Planned Unit Development district shall meet the following additional criteria:<sup>1124</sup>

- i. The proposed development meets the standards in Section 11-02-06, *PUD: Planned Unit Development*;
- ii. Any portion of the PUD zoning district to be occupied by Multifamily Dwellings, mixed-use, or industrial development shall provide a greater level of internal connectivity and connectivity to surrounding developments than would be required by this Code if the project were not being developed in a PUD zoning district;
- iii. Each multiple-family, mixed-use, or nonresidential primary structure in the PUD zoning district shall provide a greater level of design quality than would be required by this Code if the project were being developed in compliance with

<sup>1119</sup> Current

<sup>1120</sup> New. Most Codes include this provision for correction of technical mapping mistakes.

<sup>1121</sup> Last clause added at request of City Attorney.

<sup>1122</sup> Replaces current vague "compatibility" text.

<sup>1123</sup> New criteria to supplement the new standards for the PUD zoning district.

<sup>1124</sup> Criteria ii, iii, and iv are new.

Section 11-04-09, *Building Design* and applicable provisions of the Citywide or Downtown Design Standards and Guidelines instead of PUD zoning district; and

- iv. At least one of the following criteria are met;
  - A. The proposed PUD zoning district will include construction of a substantial open space, recreational, entertainment, or cultural amenity that is consistent with the Comprehensive Plan and will be open to and usable by the general public, and that would not otherwise be required by this Code; or
  - B. The proposed PUD zoning district will protect a significant ecological, natural, historical, architectural, or archeological resource that was not already protected from development by this Code or by state or federal law. Avoidance of designated floodplains or wetland areas, or the provision of additional buffers around such areas, does not satisfy these criteria.

#### (c) Rezoning to a Specific Plan District

In addition to the criteria in Subsection (a) above, an application for a Zoning Map Amendments for a Zoning Map Amendments to a Specific Plan District shall comply with the following criteria:<sup>1125</sup>

- i. The Specific Plan is consistent with the goals, objectives and policies of the Comprehensive Plan, with particular emphasis placed upon those policies related to diversity of housing, mixing and integration of uses, pedestrian and transit design, level of service provision and environmental protection;
- ii. The Specific Plan is compatible with surrounding development and properly integrates land uses and infrastructure with adjacent properties;
- iii. The Specific Plan includes adequate provisions for utilities, services, roadway networks and emergency vehicle access; and public service demands will not exceed the capacity of existing and planned systems; and
- iv. The Specific Plan will enhance the potential for superior urban design and land use in comparison with development under the base zoning district provisions that would apply if the Specific Plan were not approved.

### 11-05-06. Nonconformities<sup>1126</sup>

#### 1. Nonconforming Uses, Parcels, and Structures<sup>1127</sup>

A nonconforming parcel, structure, use, sign, or site feature is one that was legally established but that is not in compliance with this Code due to a subsequent ordinance amendment, annexation, change of zoning, eminent domain, or similar action, and not due to the actions of the property owner.

<sup>1125</sup> (i)-(iv) are current 11-050-08.7.A.

<sup>1126</sup> Current 11-11; expanded to address nonconforming site features, and with changes as noted

<sup>1127</sup> Current 11-11-01.



## 2. Determination of Nonconforming Status<sup>1128</sup>

- A. An application by a property owner to confirm the nonconforming status of a property shall be reviewed pursuant to Section 11-05-05.2.H, *Nonconformity - Confirmation, Change, or Minor Expansion*.
- B. If the nonconforming status of a parcel, structure, use, sign, or site feature is unclear, the Director may require that the status of the property be established pursuant to Section 11-05-05.3.F, *Nonconformity - Major Expansion*.

## 3. Nonconforming Parcels<sup>1129</sup>

Notwithstanding the minimum requirements for parcel size within the various zoning districts, structures may be built, expanded, reconstructed, occupied, or used on a nonconforming parcel that existed prior to the enactment of this Code provided that such structures and uses meet all other applicable requirements of this Code including but not limited to the provisions of Section 11-04-03.3, *Residential Small Lots*.

## 4. Nonconforming Structures<sup>1130</sup>

- A. A nonconforming structure occupied by a conforming use may be maintained and repaired, and may be expanded provided the expansion does not increase the degree of nonconformity. For example, a building that is nonconforming due to an inadequate front setback may be extended towards the side or rear provided they do not encroach into required side or rear setbacks, because such expansions do not increase the degree of nonconformity of the front setback.
- B. A nonconforming structure occupied by a nonconforming use may be maintained and repaired but may only be expanded as needed to occupy any expansion of the nonconforming use permitted pursuant to Subsection 5 below.
- C. A nonconforming structure shall not be replaced except in compliance with this Code, but may be maintained, repaired, or internally altered provided that there is no increase in the degree of noncompliance with this Code.
- D. When a structure housing a nonconforming use is illegally modified or expanded, the lawful nonconforming status of the use shall be lost.

## 5. Nonconforming Uses<sup>1131</sup>

A nonconforming use of a conforming or nonconforming structure or parcel may continue, and may be sold, leased, or otherwise conveyed to a new owner, tenant, or user, without loss of nonconforming status, provided the continued use of the property complies with the following provisions:

- A. The area of the parcel or building occupied by a nonconforming use may be expanded as provided in Table 11-05.1: *Summary of Review and Decision-Making Procedures*.

<sup>1128</sup> Current 11-11-06. Wording revised for clarity.

<sup>1129</sup> Current 11-11-02. Cross-reference is new.

<sup>1130</sup> Current 11-11-03. Provision for expansions that do not increase nonconformities is new; and distinction between structures containing conforming and nonconforming uses is new.

<sup>1131</sup> Current 11-11-04. Provision that "These regulations shall not be used to deprive the use of improvements on private property based solely on nonuse of the improvements for their designed purposes for a period of 10 years or less" was deleted following City Attorney's office review.

- B.** An expansion of less than 20 percent beyond the area of the building or parcel occupied by the nonconforming use on the Effective Date may be approved through the approval of a Zoning Certificate if the Planning Director determines that the criteria in Subsection E below area met.
- C.** An expansion of 20 percent or more beyond the area of the building or parcel occupied by the nonconforming use on the Effective Date may be approved by the PZC following a public hearing pursuant to Section 11-05-04.5, *Scheduling and Notice of Public Hearing* if the PZC determines that the criteria in Subsection E below are met.
- D.** Nonconforming uses may be converted to another nonconforming use through the approval of a Zoning Certificate if the Director determines that the criteria in Subsection E below are met.
- E.** A nonconforming use may only be expanded or changed to another nonconforming use if the Planning Director or PZC, as applicable, determines that the proposed use:
  - (1)** Will not violate a policy of the Comprehensive Plan;
  - (2)** Will not unduly burden transportation or service facilities;
  - (3)** Will not result in material adverse impacts to surrounding properties; and
  - (4)** Will be no greater in intensity, impacts, and demand for services than the existing nonconforming use.
- F.** If a nonconforming use is expanded in violation of this Code, the lawful nonconforming status shall be lost.<sup>1132</sup>
- G.** These regulations shall not be used to deprive the use of improvements on private property based solely on nonuse of the improvements for their designed purposes for a period of 10 years or less.<sup>1133</sup>

## 6. Nonconforming Signs<sup>1134</sup>

Any non-temporary sign legally existing on the Effective Date that does not conform in use, location, height, or size to the requirements of this Code shall be considered a nonconforming sign. A nonconforming sign may remain in use subject to the following provisions:

- A.** Nonconforming signs may be maintained and repaired, and copy changes and sign face changes that use similar materials are permitted.
- B.** Nonconforming signs shall not be structurally altered, moved, or replaced without being brought into conformance with the provisions of this Code.
- C.** If the sign is abandoned, the sign shall lose its lawful nonconforming status and shall be removed or brought into compliance with this Code.<sup>1135</sup>
- D.** Any use or modification of the sign in violation of Subsections B or C above shall result in the sign losing its lawful nonconforming status.

<sup>1132</sup> Deleted "Thereafter, the lands and structures may only be used in conformance with this Code."

<sup>1133</sup> Reflects Idaho 67-6538.

<sup>1134</sup> Current 11-10-03.9.

<sup>1135</sup> Wording revised for clarity at suggestion of City Attorney's office.

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## 7. Nonconforming Site Features<sup>1136</sup>

Nonconforming site features include any aspect of a property other than its use, structures, or signs, including but not limited to amounts, types, and locations of parking, landscaping, buffering, or lighting, that were legally created but that no longer comply with this Code.

Nonconforming site features may continue in use subject to the following provisions:

- A. The site features may remain in use unless and until one of the primary structures on the site is redeveloped or replaced.
- B. If one or more of the primary structures on the site is expanded by more than 50 percent, and the expansion disturbs any of the nonconforming site features, the Planning Director may require that the nonconforming site feature be brought into compliance with this Code to the maximum extent practicable.

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## 8. Discontinuance of Use, Building, or Sign<sup>1137</sup>

- A. Except as stated in Subsection B below, a nonconforming use, building, or sign that is discontinued for a period of one year shall be deemed to have been purposely discontinued, and the parcel and use, building, or sign shall thereafter be required to comply with all applicable provisions of this Code.
- B. Upon application by the property owner, the PZC shall approve, approve with conditions, or deny a Conditional Use Permit pursuant to Section 11-05-05.3.L allowing the reconstruction or reestablishment of the use, building, or sign. Any approval by the PZC may include conditions designed to bring the property closer to conformity to this Code or to mitigate any negative impacts on the surrounding neighborhood caused by the reconstruction or reestablishment of the nonconformity.<sup>1138</sup>

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## 9. Destruction by Calamity<sup>1139</sup>

- A. Except as stated in Subsection B below, the lawful nonconforming status of a structure, use, sign, or lot feature shall be lost when it is destroyed by fire or other calamity to the extent that the cost of restoration is 50 percent or more of the assessed value.
- B. Upon application by the property owner, the PZC shall approve, approve with conditions, or deny a Conditional Use Permit pursuant to Section 11-05-05.3.L allowing the reconstruction or reestablishment of the structure, use, sign, or site feature. Any approval by the PZC may include conditions designed to bring the property closer to conformity to this Code or to mitigate any negative impacts on the surrounding neighborhood caused by the reconstruction or reestablishment of the nonconformity.

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# 11-05-07. Violations, Enforcement, and Penalties<sup>1140</sup>

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## 1. Authority<sup>1141</sup>

- A. The Planning Director and their designees are designated enforcement officials with full authority to investigate, issue notices of violation, and secure remedies, including but not limited to injunctive relief, for any violation of this Code.

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<sup>1136</sup> New.

<sup>1137</sup> New. Replaces current provisions that do not allow for reestablishment after discontinuance.

<sup>1138</sup> New.

<sup>1139</sup> Current 11-11-05. Powers of PZC to authorize reestablishment or reconstruction described in more detail.

<sup>1140</sup> Current 11-01-08 unless otherwise noted.

<sup>1141</sup> New.

- B.** All departments, officials, and public employees of the City that are vested with the duty or authority to review and/or issue permits, certificates, approvals, or licenses shall conform to the provisions of this Code and shall issue no permit, certificate, approval, or license for any use, building, activity or purpose that would conflict with the provisions of this Code.

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## 2. Violation

### A. General<sup>1142</sup>

- (1)** Any violation of the provisions of this Code or any conditions of approval required under an issued permit, certificate, approval, or license or any work in excess of the authority granted by the issuance of a permit, certificate, approval or license, shall constitute a misdemeanor pursuant to Section 1-4-1 of the Boise City Code. A separate offense occurs for each day or portion of a day during which a violation is committed, continued, or permitted.
- (2)** Violations of this Code include but are not limited to:<sup>1143</sup>
- (a)** Engaging in the division of land for sale or development in any way that does not comply with the standards, criteria, and procedures for approval of a Record of Survey or a Subdivision Plat, as applicable, under this Code.
  - (b)** Transferring title to land by reference to a lot, tract, or parcel of land shown on a map or plat before the Record of Survey or Subdivision Plat creating those lots, tracts, or parcels has been approved by the City and recorded with the Ada County Recorder.
  - (c)** Submitting for recording with Ada County Recorder any Record of Survey or Subdivision Plat that has not been approved under this Code.
  - (d)** Obtaining a permit or approval under this Code through submittal of inaccurate or misleading information, or through making inaccurate or misleading statements at a public hearing, regarding the proposed development, the conditions of the land on which the proposed development is located, or conditions on adjacent parcels.
  - (e)** Obstructing or removing any public notice required to be posted or otherwise given under this Code.
  - (f)** Failing to operate and maintain property or to properly secure sites where construction has been abandoned, as required by Section 11-04-012, *Operations and Maintenance*.
  - (g)** Creating or maintaining a public nuisance, as defined in this Code.

### B. Affordability Incentives<sup>1144</sup>

The following shall apply to all development earning one or more of the affordability incentives set forth in Section 11-04-03.7, *Incentives*:

- (1)** Projects that earn affordability incentives under Section 11-04-03.7, and are approved for construction or reuse by the City, but that are not constructed, operated, or managed to maintain the affordability levels required by Section 11-04-03.7, shall be in violation of this Code and shall be subject to all enforcement actions and penalties applicable to other violations of this Code.

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<sup>1142</sup> Current 11-01-08.1.

<sup>1143</sup> New, to add clarity and simplify enforcement.

<sup>1144</sup> New.

- (2) The owner of each rental dwelling unit for which an affordability incentive has been approved pursuant to Section 11-04-03.7, that are rented above the required levels of affordability shall be in violation of this Code.
- (3) The seller of an owner-occupied dwelling unit for which an affordability incentive has been approved pursuant to Section 11-04-03.7, that are sold at prices above the required levels of affordability shall be in violation of this Code.

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### 3. Inspection And Enforcement<sup>1145</sup>

#### A. General

- (1) The Planning Director shall maintain a program to enforce all aspects of the Code for which the Building Official does not have enforcement authority pursuant to Subsection (2), to abate public nuisances as defined in this Code, and to provide assistance in the prosecution of violations.<sup>1146</sup>
- (2) When the Planning Director determines that a violation of this Code has occurred, the Director may select one or more of the powers listed in Section 11-05-07, individually or in combination, and in any order, that the Director determines is best suited to bring the property into compliance with this Code within a reasonable period of time.
- (3) The Building Official shall enforce the provisions of this Code pertaining to the erection, construction, reconstruction, moving, conversion, alteration, addition, location, or razing of a building or structure.

#### B. Inspections<sup>1147</sup>

Upon presentation of proper credentials, including a warrant, an authorized employee or agent of the City may enter at reasonable times any building, structure, or premises in the City to perform inspections of potential violations of this Code.

#### C. Withholding of Permits and Approvals<sup>1148</sup>

- (1) No Building Permit or final Certificate of Occupancy shall be issued for any building or structure that does not fully comply with the provisions of this Code. Nothing in this Code shall be waived or superseded by the wrongful or erroneous issuance of a Building Permit, business license, or Certificate of Occupancy.
- (2) If the City has issued some permits or approvals for a development or subdivision, but additional permits or approvals are needed for completion of the project, and the City determines that there have been violations of this Code related to those permits or approvals already granted, the City may withhold later permits or approvals for the development until the violations have been corrected.
- (3) As an alternative to withholding of permits or approvals, the City may issue later permits or approvals subject to conditions that the existing violations be cured within a stated period of time.

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<sup>1145</sup> Current Section 11-010-08.1 related to sign code violations not carried forward as duplicative of the general enforcement provisions. Subsection 2 is new.

<sup>1146</sup> Wording revised to ensure that the Director and the Building Official collectively have authority to enforce all aspects of the Code.

<sup>1147</sup> New.

<sup>1148</sup> New.

#### **D. Abatement**

- (1) Following a determination by the Planning Director that a public nuisance as defined in this Code is being maintained, notice shall be given to the owner or owner's representative either in person or by certified mail to abate the nuisance or violation within a time specified in the notice.
- (2) If the owner or owner's representative fails to comply with the requirements of the notice within the period specified, the Director may take action including abatement or cleanup.
- (3) The City may recover the cost of abatement or cleanup as allowed under Idaho State Code 50-1008 as a lien upon the property or as a City tax for costs incurred in the abatement or cleanup.
- (4) Proceeding under this Code will not preclude the City from proceeding under other sections of the Boise City Code or under any other applicable provisions of state or federal statutes.

#### **E. Assurance of Discontinuance**

As an additional means of enforcing this Code, the Director may accept an "Assurance of Discontinuance" of an act or practice deemed in violation of this Code or any rule or regulation adopted pursuant to this Code from a person engaging in, or who has engaged in such act or practice. The assurance shall specify a time limit during which such discontinuance is to be accomplished. Failure to perform the terms of the assurance shall constitute prima facie proof of a violation for the purpose of securing injunctive relief from a court of competent jurisdiction.

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### **4. Remedies And Penalties**

#### **A. General Penalties<sup>1149</sup>**

- (1) A permit, certificate, or approval issued in conflict with the provisions of this Code shall be null and void.<sup>1150</sup>
- (2) Any violation or noncompliance with the provisions of this Code shall be subject to all remedies, penalties, and enforcement available under Title 1, Chapter 4, of the Boise City Code and Title 67, Chapter 65, of the Idaho Code, including but not limited to criminal misdemeanor and civil injunction action.
- (3) Any person who violates any provision of this Code shall be punished by a fine of not more than \$1,000.00.
- (4) Any person who files an application who willfully makes any false statement in such application, or who, upon demand, willfully furnishes false information, shall be guilty of a misdemeanor and shall be punished by a fine of not more than \$1,000.00.

#### **B. Affordability Incentive Penalties<sup>1151</sup>**

The following shall apply to all development earning one or more of the affordability incentives set forth in Section 11-04-03.7, *Incentives*.

- (1) The owner of each rental dwelling unit for which an affordability incentive has been approved pursuant to Section 11-04-03.7, that is not rented in compliance with the required levels of affordability shall be subject to an additional penalty equal to 125

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<sup>1149</sup> (3) and (4) are from current 11-05-09.18 and applied broadly.

<sup>1150</sup> Current 11-01-08.2. Expanded list to include "certificates" and "approval".

<sup>1151</sup> New.

percent of the difference between the maximum rent required by Section 11-04-03.7 and the rent actually charged to the renter, calculated cumulatively for each day of violation.

- (2) The seller of an owner-occupied dwelling unit for which an affordability incentive has been approved pursuant to Section 11-04-03.7, that is not sold in compliance with the required levels of affordability shall in addition be subject to an additional penalty equal to 125 percent of the difference between the maximum sales price required by Section 11-04-03.7, and the sales price at which the unit was sold.

#### C. Revocation of Permits and Certificates

The Planning Director or a review body shall have the authority to revoke any permit, certificate, or approval<sup>1152</sup> that has been granted under this Code when it has been determined that the structure or use authorized by the permit, certificate, approval, or license has been constructed or is being maintained in violation of this Code or of the conditions and limitations of an issued permit, certificate, or approval. In order to revoke the permit, certificate, or approval, the Director shall follow the following procedures:

- (1) A notice of intent to revoke a permit, certificate, or approval shall be sent to the holder of the permit, or to one of their representatives, or, if this is not possible, the notice shall be posted in a conspicuous position at the entrance to the premises and by the certified mailing of another copy of the notice to the last known address of the permit, certificate, or approval holder.
- (2) The permit, certificate, or approval shall be revoked within 15 days of the posting of the notice of intent to revoke unless the cause of the violation has been removed and evidence of the same has been present to the Director within that period.
- (3) Any action of permit, certificate, approval, or license revocation may be appealed pursuant to Section 11-05-04.7.A, *Appeals*<sup>1153</sup>

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### 5. Required Property Maintenance

#### A. Purpose

This Section is intended to help prevent urban blight by establishing minimal property maintenance standards.

#### B. General

Damaged, dilapidated, or unfinished buildings shall be restored or finished to eliminate detrimental visual impacts. A property owner shall take steps to restore or finish the building per approved plans. No building or premise shall detrimentally impact the surrounding neighborhood due to dilapidation, deterioration, decay, abandonment, or unfinished construction.

#### C. Restoration of a Damaged or Dilapidated Building or Completion of an Unfinished Building

Restoration of a damaged or dilapidated building or work toward completion of an unfinished building shall begin within six months of the building becoming damaged or dilapidated or being deemed unfinished. The City may require that such buildings that are also unoccupied be secured (fenced or boarded up) during the six month period. This deadline may be extended by the Planning Director upon submission of documentation of

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<sup>1152</sup> Expanded list to include "approval".

<sup>1153</sup> 10 day appeal text deleted; standard appeal provisions apply.



insurance settlement delays or similar complications beyond the owner's control. Restoration of a damaged or dilapidated building or work on an unfinished building shall be completed within one year from commencement.

**D. Due Process Hearing<sup>1154</sup>**

If the City determines that either of the two events in Subsections (1) or (2) below have occurred, the City shall advertise and the Hearing Examiner shall conduct a public hearing pursuant to Section 11-05-04.7.A(1)(a)i as to why the building has not been restored or completed as required.

- (1) It has not been maintained at a minimal property maintenance standard as required by applicable City, state, or federal regulations, or as necessary to protect public health and safety for six months, or a necessary to avoid the creation of a private or public nuisance;<sup>1155</sup> or
- (2) Efforts to restore or finish the building have not been completed within one year after restoration or construction work has begun.

**E. Notice**

At least 15 days prior to the date of the public hearing, notice shall be sent via certified mail to the property owner and by first class mail to residents and property owners within 300 feet of the property, and a public notice of the hearing shall be advertised in the official newspaper of the City.

**F. Required Findings**

- (1) Removal or restoration of the building shall be ordered if the following findings are made:
  - (a) The building meets the definition of a damaged or dilapidated building, or of an unfinished building;
  - (b) The building has existed in a damaged or dilapidated or unfinished state for a period of at least six months or has not been maintained at the minimal property standards for a period of six months; and
  - (c) The property owner has previously received written notice as required in paragraph E, above.
- (2) If removal or restoration is ordered, the City shall obtain bids to restore the building or clear the site of the offending building.
- (3) The fact that a building is not a danger or attractive visual nuisance shall not be a defense for failing to restore or finish it.

**G. Restoration and Demolition**

**(1) Fund**

The City shall establish a revolving fund to be designated for building restoration and demolition pursuant to this Code. Payments shall be made out of this fund upon the

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<sup>1154</sup> Wording revised for clarity at the suggestion of City Attorney's office. Wording has been revised to clarify that the City is not obligated to hold a hearing just because a complaint has been made. Clarified that it is a Hearing Examiner hearing (not a PZC hearing) similar to that which would be conducted if other enforcement actions were appealed.

<sup>1155</sup> Wording revised to clarify what minimal maintenance is required.



demand of the Planning Director to defray the costs and expenses associated with restoration or demolition.

**(2) Recovery of Cost of Restoration or Demolition**

The property owner shall be billed for the costs of restoration or demolition. If the property owner does not respond within 60 days, the City may recover costs of the abatement in a civil action or by filing an assessment with the Ada County Recorder on or before the first day of August of the year. Assessments remaining unpaid after 30 days from the date of recording on the assessment roll shall become delinquent and shall bear interest at the rate of 10 percent per annum, or the current interest rate if higher, from and after the date. All money recovered from the sale of the property at a foreclosure sale shall be returned to the restoration and demolition fund.

# Chapter 11-06 Definitions<sup>1156</sup>

## Commentary:

This Chapter includes the rules of construction for interpreting the Zoning Code and provides definitions of key terms. Many definitions were carried forward with minimal revision, often without footnote. New definitions are noted as such.

### 11-06-01. Meanings of Words Generally<sup>1157</sup>

As used in this Code, each of the terms defined shall have the meaning given in this Section unless a different meaning is clearly required by the context.

#### 1. General Rules

The following rules shall apply for construing or interpreting the terms and provisions of this Code.

##### A. Meanings and Intent

All provisions, terms, phrases, and expressions contained in this Code shall be construed according to the general purposes set forth in this Section and the specific purpose statements set forth throughout this Code.

##### B. Headings, Illustrations, And Text

In the event of a conflict or inconsistency between the text of this Code and any heading, caption, figure, illustration, table, or map, the text shall control.

##### C. Lists and Examples

Unless otherwise specifically indicated, lists of items or examples that use terms such as "for example," "including," and "such as," or similar language are intended to provide examples and are not exhaustive lists of all possibilities.

##### D. Computation of Time

The time in which an act is to be done shall be computed by excluding the first day and including the last day. If a deadline or required date of action falls on a Saturday, Sunday, or holiday observed by the City, the deadline or required date of action shall be the next day that is not a Saturday, Sunday or holiday observed by the City. References to days are calendar days unless otherwise stated.

##### E. References to Other Regulations/Publications

Whenever reference is made to a resolution, ordinance, statute, regulation, or document, it shall be construed as a reference to the most recent edition of such regulation, resolution, ordinance, statute, or document, unless otherwise specifically stated.

##### F. Delegation of Authority

Any act authorized by this Code to be carried out by a specific official of the City may be carried out by a designee of such official.

<sup>1156</sup> Current 11-12. All maps included in this Chapter will be updated to a consistent style at the time of the Adoption Draft.

<sup>1157</sup> Current 11-12-01.

**G. Technical and Non-Technical Terms**

Words and phrases shall be construed according to the common and approved usage of the language, but technical words and phrases that may have acquired a peculiar and appropriate meaning in law shall be construed and understood according to such meaning.

**H. Public Officials and Agencies**

All public officials, bodies, and agencies to which references are made are those of Boise City unless otherwise indicated.

**I. Mandatory and Discretionary Terms**

The words "shall," "must," and "will" are mandatory in nature, establishing an obligation or duty to comply with the particular provision. The words "may" and "should" are permissive in nature.

**J. Conjunctions**

Unless the context clearly suggests the contrary, conjunctions shall be interpreted as follows: "And" indicates that all connected items, conditions, provisions, or events apply; and "Or" indicates that one or more of the connected items, conditions, provisions, or events apply.

**K. Tenses, Plurals, And Gender**

Words used in the present tense include the future tense. Words used in the singular number include the plural number and the plural number includes the singular number, unless the context of the particular usage clearly indicates otherwise.

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**2. Interpretations**

The Planning Director has final authority to determine the interpretation or usage of terms used in this Code.

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**11-06-02. Rules of Measurement<sup>1158</sup>**

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**1. Density**

Density shall be calculated as the number of dwelling units per acre.

**2. Fractions**

**A. Off-Street Parking, Loading, or Vehicle Stacking<sup>1159</sup>**

Any fractional requirement of a parking space shall be rounded up to require one additional parking space.

**B. Landscaping<sup>1160</sup>**

Where a calculation of a landscaping requirement results in a fractional number, the requirement shall be considered the next greatest whole number.

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**3. Lot and Building Standards**

**A. Buildable Area**

For the purpose of Section 11-04-05.6, *Foothills Planned Development Standards*, the space within the setback lines that remains on a lot after compliance with the minimum open space

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<sup>1158</sup> This Section consolidates current 11-12-03 and other rules of measurement from throughout the current Code.

<sup>1159</sup> Carried forward current Section 11-07-03.1.A.(2).

<sup>1160</sup> Generally applied fractional requirements for Street Trees (Section 11-070-05.2.D(1)c.) to all landscaping.

requirements of this Code. Lands with a slope of 25 percent or less are buildable, if outside of floodways or geologic hazards. Buildable areas shall be designated in the conditional use site plan as either development pockets or permanent open space in the ratio chosen under the density bonus formula. Buildable area is determined by natural topography, not by post-construction graded contours.

For all other purposes, the area of the lot excluding the required building setbacks.

**B. Effective Lot Area**

The gross horizontal area of a lot minus any portion of the lot encumbered by a recorded driveway or road easement.

**C. Floor Area, Gross**

The sum of the square footage of all floors, including lofts and basements, inside the exterior walls of a building or portion of a building.

**D. Floor Area, Net Leasable**

The entire square foot area of floor space of a building that is enclosed and subject to heating or air conditioning, less any of the following:

- (1) Any space used and occupied by central mechanical or electrical equipment, elevators, escalators, conveyors, dumbwaiters, lifts, chutes, trash disposal units, and fuel storage spaces; and
- (2) Public rights-of-way and other similar enclosed spaces open to the public, such as public washrooms, corridors, stairwells, or elevator lobbies.

**E. Floor Area Ratio (FAR)**

The gross floor area divided by the lot area.

**F. Grade**

The elevation of the finished surface of the ground adjacent to the exterior wall of a building or structure. If a berm has been created adjacent to the structure, or if the structure is built on top of a berm or retaining wall, grade will be considered the lowest point of the berm or wall.

**G. Grade, Established**

The curb line grade at the lot lines established by the City Engineer or otherwise established by law.

**H. Lot Area**

The square footage within the boundary of a lot or parcel. Lot area shall be determined exclusive of land that is used for public or private streets, highways, alleys, roads, and rights-of-way. The flagpole or stem portion of a flag lot shall not be considered as part of the lot area.

**I. Lot Coverage**

The area of a lot occupied by the primary building(s) and any accessory building(s).

**J. Lot Depth**

The distance between front and rear lot lines measured in the mean direction of the side lot lines.

**K. Lot Width (Average)**

The distance between the side lot lines, measured in one of the following manners, whichever is applicable as determined by the Planning Director:

- (1) In the case of a regular-shaped lot, the width shall be measured along the front lot line;
- (2) In the case of an irregular-shaped lot, the width shall be the average distance between the side lot lines, with the average distance to be measured at 10 foot intervals for the first 100 feet of the lot depth beginning at the front lot line;
- (3) In the case of a regular-shaped flag lot, the width shall be measured at a distance of 20 feet from the inside end of the flag pole; or
- (4) In the case of an irregular-shaped flag lot, the width shall be the average distance between the side lot lines, with the average distance to be measured at 10 foot intervals for the first 100 feet of the lot depth beginning at the front lot line.
- (5) In no instance shall the dimension of a lot at its front setback line be less than the minimum average lot width required for the zoning district in question.

**L. Non-buildable Area**

Lands with a slope greater than 25 percent are non-buildable areas and do not qualify as a development pocket, nor are they eligible to be calculated as open space for establishing a density bonus, unless classified as priority open space.

**M. Open Space<sup>1161</sup>**

When this Code requires that a percentage of open space be provided on a lot or within a development, that requirement is in addition to any required front or side building setbacks and/or street or property edge buffers otherwise required by this Code. Unobstructed at grade rear yard areas provided on site, whether or not required by this Code, shall count towards required open space.<sup>1162</sup>

**N. Percent Slope**

The vertical rise divided by the horizontal distance within which the vertical rise takes place.

**O. Story**

That portion of a building included between the upper surface of any floor and the upper surface of the next floor above, except that the topmost story shall be that portion of a building included between the upper surface of the topmost floor and the ceiling or roof above. If the finished floor level directly above a basement or cellar is more than six feet above grade, such basement or cellar shall be considered a story.

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**4. Height**

**A. Building Height<sup>1163</sup>**

The vertical distance from the grade to the highest point of the roof or structure that is not listed as an exception to the maximum building height limits in Section 11-04-03.6.B.<sup>1164</sup>

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<sup>1161</sup> New.

<sup>1162</sup> Revised in Consolidated Draft to count rear yards as open space.

<sup>1163</sup> New simplified building height measurement.

<sup>1164</sup> Last clause added in Consolidated Draft for internal consistency.

**B. Fence Height<sup>1165</sup>**

The height of fences shall be measured from the finished grade adjacent to the lowest section of the fence, and attached lattice, privacy screens, and similar features shall also be included in the total height.

**5. Setbacks**

**A. Definitions**

**(1) Yard, Front**

An area that extends across the full width of the lot adjacent to the front street line. Building design shall match respective yard types. For corner lots, either street may be designated as the front. For flag lots, the front yard shall be that facing the primary street frontage, as determined by the Planning Director. Once chosen, the front yard designation and associated rear and side yards shall not be changed.<sup>1166</sup>

**(2) Yard, Interior Side**

A side yard that does not abut a street.

**(3) Yard, Rear**

An area that extends across the full width of the lot between the rear line of the lot and the nearest line of the primary building.

**(4) Yard, Side**

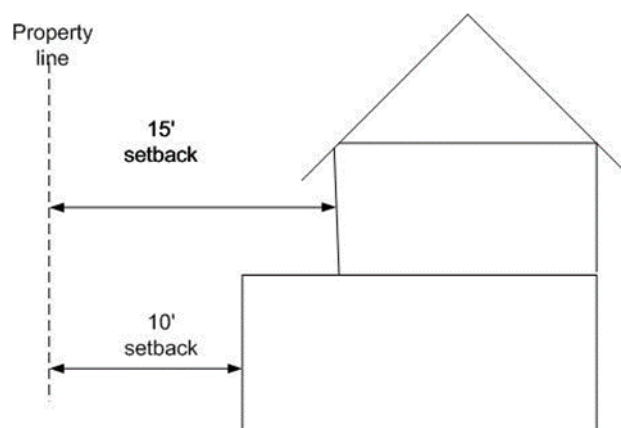
An area between the wall of the principal and accessory buildings, and side lot line, and between the front and rear lot line.

**(5) Yard, Street Side**

On a corner lot, a side yard that abuts a street.

**B. Measurement**

Setbacks are measured from the property line or the back of sidewalk, whichever is greater unless otherwise indicated in a specific zoning district. When based on the street type consult the most recently adopted ACHD Functional Classification Map. When setbacks are required by building story, the setback is measured to each individual story as follows:



<sup>1165</sup> New in Consolidated Draft.

<sup>1166</sup> Third sentence added in Consolidated Draft.

When a building setback line is delineated on any plat, the setback shown on the plat shall apply.

**C. 6500 C.F.S Setback Line**

The line that demarcates the edge of visible moving surface water as determined by the City Engineer in accordance with the following procedures from which the setbacks required in this Code are measured:

- (1) Shall be based upon a flow of 6500 c.f.s. in the river adjacent to the parcel being reviewed.
- (2) Shall only apply to natural channels, including side channels of the Boise River and to man-made channels if the man-made channel capacity is required in order to pass the 6500 c.f.s flow under normal flooding conditions.
- (3) Shall be the actual location of the water's edge except in areas of extended shallow backwater with no current. For purpose of definition, "shallow" shall mean one foot or less in depth.
- (4) The intent of this definition is to also specifically exclude seeps or other surface waters that are present, but not fed directly from river flows.

**11-06-03. Definitions<sup>1167</sup>**

**A**

**Abate**

Means to repair, replace, remove, destroy, or otherwise remedy a condition by such means and in such manner and to such an extent as the Planning Director shall determine is necessary in the interest of the general health, safety, and welfare of the community.

**Abutting<sup>1168</sup>**

Bordering or touching, such as sharing a common lot line. Lots that are separated by a street, right-of-way, or platted alley are not abutting.

**Access**

The place, means, or way by which pedestrians or vehicles shall have safe, adequate, and usable ingress and egress to a property, use, or parking space.

**Access, Emergency**

An additional route of access to a development for emergency vehicles. Use of emergency access is restricted to emergency vehicles by means of bollards, gates, or some other device to prohibit general use by the public. Emergency access must meet the requirements of the Uniform Fire Code as adopted by the Fire Department.

**Accessible**

Describes a site, building, facility, or a portion of a site, building, or facility, that can be approached, entered, and used by people with disabilities.

<sup>1167</sup> Current 11-12-02 (Definitions of Uses and Use Categories), 11-02-04 (Historic Preservation Definitions), 11-12-05 (Other Terms Defined), and 11-10-02 (Sign Definitions).

<sup>1168</sup> New term and definition.

### Accessory Dwelling Unit<sup>1169</sup>

Except as may be further restricted, an Accessory Dwelling Unit is a dwelling unit that contains a kitchen, a full bathroom, and living and sleeping areas (which may be combined) that is incidental and subordinate to the principal use of the premises, that is located on the same lot as a principal dwelling unit, and that does not alter the essential characteristic of the principal use of the property.

### Accessory Structure<sup>1170</sup>

A structure detached from a primary structure located on the same lot and customarily incidental and subordinate to the primary building, primary structure, or principal use.

### Accessway<sup>1171</sup>

An unobstructed way of specified width containing a drive or roadway that provides vehicular access within a development, where permitted by this Code and by applicable City standards, and that connects to a public street.

### ACHD

Ada County Highway District.

### Adaptive Reuse

The modification of an existing building (most typically a single-family dwelling) for use as either an office or a Multifamily Dwelling unit or a historic institutional use, while maintaining the architectural integrity of the original structure; or the conversion of any such structure back to its original use as a single-family dwelling.

### Adjacent<sup>1172</sup>

The condition where two lots, parcels, structures, or uses touch or share one or more common property line, or where two lots, parcels, structures, or uses are separated only by an alley, easement, or street.

### Adult or Child Day Care<sup>1173</sup>

A facility, by whatever name known, that is maintained for the whole or part of a day for the care of children or for elderly and/or functionally impaired adults, and that is not located in a dwelling unit occupied by any of the operators of the facility. The facility shall be operated with or without compensation for such care, and with or without stated educational purposes, and shall hold a valid state license for the operating of an adult or child day care center, that provide day care services, including monitoring of clients, social and recreational services, food and nourishment, and health support services. This use does not include "Home Occupation, Adult or Child Day Care."

#### Adult or Child Day Care Center, Large

An Adult or Child Day Care providing for 26 or more children.

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<sup>1169</sup> Expanded current definition to reference kitchen, bathroom, living, and sleeping areas. Revised in Consolidated Draft to include a full bathroom.

<sup>1170</sup> New term and definition.

<sup>1171</sup> Revised in Consolidated Draft to extend applicability beyond Manufactured Home Communities

<sup>1172</sup> New term and definition.

<sup>1173</sup> New terms and definitions.



**Adult or Child Day Care Center, Small**

An Adult or Child Day Care providing for 13 to 25 children.

**Adult or Child Day Care Facility**

An Adult or Child Day Care providing for seven to 12 children.

**Affected Person<sup>1174</sup>**

A person having a bona fide interest in real property that may be adversely affected by the approval, denial, or failure to act upon an application required or authorized under this Code.

**Affordable Housing<sup>1175</sup>**

A residential dwelling for which the household pays no more than 30 percent of their gross income for housing costs (including utilities) and where the annual household income does not exceed 80 percent of the area median income.

**Agricultural Uses or Stables**

Tilling of soil, aquaculture, raising crops, livestock, farming, dairying, and animal husbandry including all customarily accessory and incidental uses, but excluding hogs, slaughterhouses, fertilizer works, bone yards, and commercial feed lots; or a building or structure used or designed for the boarding or care of riding horses.

**Agricultural Parcel**

A parcel of land at least five acres in size that is in agricultural use and that may include the owner's residence, if the required street frontage is provided.

**Aircraft Landing Field**

Any area of land or water that is used or intended for use by aircraft and including the necessary appurtenant structures or facilities located thereon.

**Alley**

A minor public way that provides access at the back or side of a property or a secondary means of access to abutting property and that is not intended as a traffic thoroughfare.

**Alterations, Structural**

Any change, other than incidental repairs, that would prolong the life of the supporting members of a building or structure, such as bearing walls, columns, beams, and girders.

**Animal, Large**

Animals including horses, mules, donkeys, llamas, sheep, and goats. Other animals that are not listed but are of a similar size, as determined by the Planning Director, are subject to all regulations in this Code for large animals.

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<sup>1174</sup> New, from LLUPA

<sup>1175</sup> New term and definition.

### **Animals, Small**

Animals such as rabbits, poultry, geese, domestic birds, and game birds, excluding such birds as are caged and housed inside the dwelling, and other animals deemed as such by the Planning Director and not raised for commercial purposes. Commercial purposes or uses do not include FFA, 4-H, or other student projects.

### **Animal Daycare or Kennel<sup>1176</sup>**

Any place or premise used in whole or in part to provide care and service for pet animals, including grooming, training, day care, and including any use that meets the definition of Kennel.

### **Animal Hospital or Clinic<sup>1177</sup>**

An establishment where animals or pets are given medical or surgical treatment and are cared for during the time of such treatment. This use does not include a "Kennel," and overnight boarding of animals shall only be permitted when incidental to such medical treatment and limited to short periods of time.

### **Animal Unit<sup>1178</sup>**

A unit of measure for determining livestock densities.

- A. Each mature horse, mule, donkey, llama, or cow shall represent one animal unit.
- B. Four mature sheep, swine, or goats shall represent one animal unit.
- C. Six mature geese or turkeys or game birds represent one animal unit.
- D. 10 mature rabbits represent one animal unit.
- E. 12 mature chickens or ducks represent one animal unit.
- F. The animal unit equivalency for miniature versions of pigs and other animals shall be determined by the Planning Director based on their size and potential impact on surrounding areas.

### **Annexation**

The process by which the city's corporate boundary is expanded to incorporate additional property pursuant to Idaho Code 2.C50-222.

### **Apartment**

A room or suite of rooms in a multiple-family structure that is arranged, designed, or used as a single housekeeping unit including complete kitchen and permanently installed sanitary facilities.

### **Apiary**

A place where bee colonies are kept.

### **Appeal**

A request for a review of any decision or interpretation of any provision of this Code.

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<sup>1176</sup> New term and definition.

<sup>1177</sup> New definition.

<sup>1178</sup> Minor differences between this definition and that applicable to the Big Sky Overlay district were reconciled by listing animals listed in either definition in each category. Internal inconsistency as to whether two or was resolved in favor of four equaling one animal unit.

### Appellant

A party of record or other person who is entitled by law to appeal and who initiates an appeal.

### Applicant<sup>1179</sup>

An individual, corporation, firm, or group who submits an application under this Code, or who represents an applicant under this Code. If the applicant is not the property owner, the property owner's written permission to submit the application shall be submitted with the application.

### Approved Topography

The natural topography of a parcel or the topographic conditions of a parcel approved by the City prior to the Effective Date of this Code, or as approved by a subdivision, Conditional Use Permit, hillside, and foothill development permit, Grading Permit, or Building Permit.

### Architect

An individual holding a valid architect's license from the State of Idaho that renders or offers services in connection with the design, construction, enlargement, or alteration of a building or a group of buildings. The services covered within this definition include architectural planning, advice, and consultation; providing preliminary studies; architectural design, drawings, and specifications; technical submissions; and administration of construction contracts.

### Area of Impact

An area mutually agreed upon, including plans and codes, between the city and county as provided for by Idaho Code §67-6526 and §50- 1306.

### Area of Shallow Flooding (ASF)

An area shown on the Flood Insurance Rate Map as an AO zone with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. These areas are also referred to as the alluvial fans and are characterized as sheet flow.

### Area of Special Flood Hazard (ASFH)

Lands within the city that are subject to flooding from the base flood (or "100 year flood"). These areas are also referred to as the floodplain. Designation on maps always include the letters A or V.

### Area with a Slope Greater Than Twenty-five Percent

An area with a natural (pre-grading) slope greater than 25 percent, mapped to a minimum resolution of 6,000 square feet in area, also called a Non-buildable Area.

### Area with a Slope of Twenty-five Percent or Less

An area with a natural (pre-grading) slope of 25 percent or less, mapped to a minimum resolution of 6,000 square feet in area, also called a Buildable Area.

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<sup>1179</sup> Definition from current subdivision regulations was broadened to apply generally, and requirement for "written" permission clarified, in Consolidated Draft.

### **Art Gallery, Museum, or Library<sup>1180</sup>**

A facility or area that is open to the public and is intended for the display, appraisal, purchase, sale, loan, of art books, paintings, sculpture, or other works of original art that have architectural, artistic, cultural, literary, historical, or scientific value. Accessory uses can include meeting rooms or cafes.

### **Assisted Living Facility<sup>1181</sup>**

A facility combining housing, supportive services, personalized assistance, and health care, designed to respond to the individual needs of those who need help with activities of daily living, such as dressing, grooming, and bathing, diet, financial management, evacuation of a residence in the event of an emergency, or medication prescribed for self-administration, but do not require hospitalization. This use does not contain equipment for surgical care or for treatment of disease or injury and does not include any use meeting the definition of a "convalescent or nursing home."

### **Attached**

Anything physically connected to a building or structure so as to become an integral part of the building or structure. The term includes components of a structure joined together by a common wall, floor, or ceiling or a fully enclosed hallway.

### **Auditorium or Theater, Indoor<sup>1182</sup>**

An establishment devoted to showing motion pictures or dramatic, dance, musical, or other live performances.

### **Auto-oriented Ancillary Facility<sup>1183</sup>**

A facility where a service is rendered or a sales transaction is made while the patron is typically not required to exit their vehicle, or a facility that includes services rendered directly on, to or for vehicles. Auto-oriented commercial facilities include, but are not limited to drive-up windows, automated teller machines (ATMs), car washes and fuel pumps.

### **Awning**

A projecting cover extending over a door, window, or wall section with supports attached to the building and used as cover, protection, or as decoration.

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## **B**

### **Backyard Gardening or Composting<sup>1184</sup>**

An area of land used to cultivate plants, shrubs, and or trees, any of which may produce flowers, fruit, or vegetables, and the activity of decomposing organic matter generated on any area of land or lot by a homeowner, tenant, occupant, or property owner. Backyard composting shall process materials generated primarily on site. Backyard composting shall be operated in a nuisance free manner. No commercial purpose may be associated with backyard composting.

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<sup>1180</sup> New term and definition.

<sup>1181</sup> New term and definition.

<sup>1182</sup> New term and definition.

<sup>1183</sup> New term and definition.

<sup>1184</sup> Expands current definition to include gardening.

### **Balcony**

A platform enclosed by a parapet or a railing that projects from an exterior wall of a building and open to the sky. Balconies do not include stairs for exterior exiting.

### **Basement**

The story or level of a building that is partially or totally below ground level.

### **Base Flood**

A flood that has a one percent chance of being equaled or exceeded in any given year, and is synonymous with "one percent flood" and "100- year flood." Designation on maps always include the letters A or V.

### **Base Zoning District**

The zoning district classification that is in effect on any given land for which standards are included in this Code.

### **Bed and Breakfast<sup>1185</sup>**

An establishment providing overnight accommodations and breakfast food service and capable of accommodating 12 or more guests. Establishments designed to accommodate fewer than 12 guests are a boarding or rooming house.

### **Bee**

Any stage of the life cycle of the common domestic honey bee.

### **Beekeeping<sup>1186</sup>**

The management and maintenance of beehives, colonies, combs, and other associated appliances.

### **Best-in-Class Transit Route<sup>1187</sup>**

A transit route that runs every 30 minutes throughout the day, runs every 15 minutes during peak hours, has increased hours of operation Monday through Friday (5:30 am to 9:30 pm) and Saturday (8:00 a.m. to 9:00 p.m.) and includes amenities such as a shelter structure and real-time route and tracking information.

### **Block**

A space along one side of a street that is the lesser of that between the two nearest intersecting streets, or that between an intersecting street and a right-of-way, waterway, or other similar barrier, but excluding alleys.

### **Boarding or Rooming House**

An establishment other than a hotel or restaurant where lodging or lodging and meals are provided for compensation to six to 12 guests who are not members of the householder's family.

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<sup>1185</sup> Revised for clarity.

<sup>1186</sup> New definition.

<sup>1187</sup> New term and definition.

### **Bottling and Distribution Plant<sup>1188</sup>**

A facility where soft drinks, juice, water, milk, alcoholic drinks, or other liquids are placed in bottles or cans for shipment. This use may include the combination of liquids or syrups to produce new liquids for placement in bottles or cans, the shipping and receiving of cans and bottles related to the operation, and incidental sales of bottled or canned liquids to the public but shall not include the fabrication of bottles or cans.

### **Brewpub, Micro-distillery, or Micro-winery<sup>1189</sup>**

A commercial use that brews ales, beers, meads, distilled drinks, wines, and/or similar beverages on site and serves those beverages on site. Off-site sales are permitted as an accessory use.

### **Buildable Site**

For the purpose of Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, a residential, commercial, industrial or office construction site that does not require dikes or rip-rap for protection against flooding.

### **Building**

Any structure with substantial walls and roof securely affixed to the land and entirely separated on all sides from any other structure by space or by walls in which there are no communicating doors, windows, or openings, and that is designed or intended for the shelter, enclosure, or protection of persons, animals, chattel, or property of any kind.

### **Building, Accessory**

A building that is subordinate and incidental to the primary building or use on the same lot, but not including any building containing a dwelling unit.

### **Building, Completely Enclosed**

A building enclosed by a permanent roof and by exterior walls pierced only by windows and normal entrance or exit doors.

### **Building, Detached**

A building located on its own lot and physically separated from other buildings by required setbacks or open space.

### **Building Envelope**

The designated area on a lot within which a building or other structure (including footings) shall be contained.

### **Building, Existing**

Any building erected prior to the Effective Date of this Code or one for which a legal Building Permit has been issued. Building, Nonconforming: Any building that does not conform to the requirements of this Code.

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<sup>1188</sup> New definition.

<sup>1189</sup> New term and definition.

### **Building, Principal**

A building in which the principal use of the lot is conducted.

### **Building Materials<sup>1190</sup>**

When used to describe a form of retail use, an establishment that sells large, bulky, or heavy goods generally used in constructing buildings or structures including but not limited to materials such as brick, stone, lumber, decking materials, plumbing supplies, electrical and other wiring, and/or agricultural goods, such as hay, grain, bulk garden supplies, tools, and equipment.

### **Bulk**

The size and mutual relationships of buildings and other structures as to size, height, coverage, shape, and location of exterior walls in relation to lot lines, to the center lines of the streets, to other walls of the same building, to other buildings or structures, and to all open spaces relating to the building or structure.

### **Bulk Storage of Flammable or Dangerous Materials<sup>1191</sup>**

Any light, heavy operation that stores, uses, or produces materials on-site in sufficient enough quantities to create an immediate risk of impacts beyond the boundaries of the facility. These risks of impacts include those resulting from explosion, fire, migration to waterways, toxic gas release or release of radioactive gases.

### **Bus Station**

Any premises for the transient housing or parking of buses and the loading and unloading of passengers.

### **Business**

The purchase, sale, exchange, or other transaction involving the handling or disposition of any article, substance, or commodity for profit or livelihood; the ownership or management of office buildings, offices, recreation, or amusement enterprises; or the maintenance and use for offices; or professions and trades rendering services.

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## **C**

### **Car Wash**

A facility for the cleaning of automobiles, providing either self-serve facilities or employees to perform washing operations.

### **Caretaker's Residence**

A dwelling on a nonresidential property occupied by a person, and the immediate family of the person, who oversees or guards the operation.

### **Carport**

A structure open on at least two sides used to house or protect motor vehicles that are owned or operated by the occupants of the primary building.

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<sup>1190</sup> Revised for clarity.

<sup>1191</sup> New definition.

### Cellar

A storage room(s) located under the main floor or floors of a building and partly or totally below ground level.

### Channel

The bed and banks of a river, stream, tributary, or waterways.

### Cemetery<sup>1192</sup>

Land used or designated for the interment of human or animal remains, including columbaria, crematoria, mausoleums, mortuaries, and associated maintenance facilities when operated in conjunction with, and within the boundaries of, such cemetery.

### C.F.S. (or c.f.s.)

When used in the context of administration of the Boise River System Overlay district regulations, the abbreviation c.f.s. indicates cubic feet (of water) per second.

### City Council<sup>1193</sup>

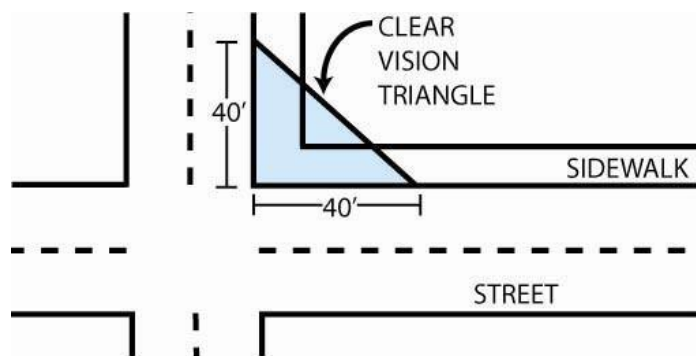
The City Council of the City of Boise, Idaho, including the term "Council" as referenced in this Code.

### Class A, B, and C Lands and Waters

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, lands and waters that provide habitats for fish, birds, and other wildlife.

### Clear Vision Triangle<sup>1194</sup>

- A. At a street intersection or street and railroad intersection, a clear vision triangle shall be formed horizontally by measuring 40 feet along the roadway edges or roadway and railroad track edges from the intersection of the roadway edges or roadway edge and railroad track and connecting those points, and vertically by measuring between three feet and 10 feet above grade, unless a different dimension or design is required by ACHD.



- B. Where a driveway enters the street right-of-way, a clear vision triangle shall be formed horizontally, by measuring 10 feet into the lot as measured from the sidewalk edge that is closest

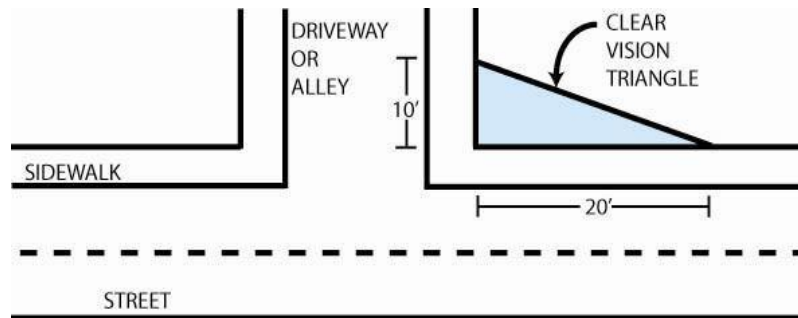
<sup>1192</sup> Definition expanded to include crematoria.

<sup>1193</sup> New term and definition.

<sup>1194</sup> Reference to ACHD is new.



to the property line (or from the property line if no sidewalk exists), and 20 feet along the sidewalk edge (or property line if no sidewalk exists) parallel to the street, and vertically by measuring between three feet and 10 feet above grade.



### Club, Lodge, or Social Hall<sup>1195</sup>

Nonresidential organization of persons for special purposes or for the promulgation of sports, arts, literature, politics, or other common goals, interests, or activities, characterized by membership qualifications, dues, or regular meetings.

### Colony

As used in Section 11-03-03.6.B, *Beekeeping*, bees in any hive including queens, workers, and drones.

### Commercial

Any activity conducted with the intent of realizing a profit from the sale of goods or services.

### Commercial Feedlot<sup>1196</sup>

A lot or parcel on which hogs are raised, bred, and slaughtered, or where livestock are fed intensively in order to fatten for market, or where livestock are held on a short-term basis prior to slaughter. It does not include short-term holding pens for auction facilities.

### Common Area/Space

Land within a subdivision or development that is not individually owned or dedicated for public use that is designed and intended for the common use or enjoyment of the residents of the development. It may include complementary structures and improvements i.e., recreation area, parking, landscaping, or others.

### Community Center<sup>1197</sup>

A building, together with accessory structures and uses, used for recreational, social, educational, or cultural activities by and for the benefit of community groups and individuals, that is accessible to the general public or to members of the residential development in which it is located, and that is not operated for profit.

### Compensation

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, restoration of degraded, appropriate enhancement of existing, or creation of new natural resource functions and values.

<sup>1195</sup> New definition.

<sup>1196</sup> Renamed from "Hog Raising, Feedlot, Stockyard."

<sup>1197</sup> New term and definition.

### Compensation, In-kind

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, restoration of degraded, appropriate enhancement of existing, or creation of new natural resource functions and values that are the same as those natural resource functions and values that are impacted by a proposed action.

### Compensation, Out-of-kind

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, restoration of degraded, appropriate enhancement of existing, or creation of new natural resource functions and values that differ from those impacted by a proposed action.

### Compost

A humus-like material, produced from composting, that has been stabilized to a degree that is potentially beneficial to plant growth and that is usable as a soil conditioner, top soil, growing medium amendment, or other similar uses to buffer the soil Ph, improve soil aggregation and tilth, reduce erosion, enhance water infiltration and retention, increase soil porosity and aeration, slow the rate of temperature change in soil, provide food for soil microorganisms, or enhance availability of micronutrients in soils.

### Composting Facility

A facility where organic matter that is derived primarily from off-site is processed by composting and/or is processed for commercial purposes. Activities of a composting facility may include management, collection, transportation, staging, composting, curing, storage, marketing, or use of compost.

### Comprehensive Plan

The most current Comprehensive Plan officially adopted for the City and as subsequently amended.

### Concentrated Feeding Area

That part of a site in which animals are raised or kept in a confined area at some location within the parcel or reserve area. A concentrated feeding area may include any feeding or holding operation where animals are concentrated in an area that is:

- A. Not normally used for pasture or growing crops and in which animal waste may accumulate, or
- B. Any trough or similar feeding apparatus.

### Conditional Use

A use that, because of special requirements or characteristics, may be allowed in a particular zoning district only after review by the Planning and Zoning Commission and granting of a Conditional Use Permit imposing such conditions as necessary to make the use compatible with other uses permitted in the same zoning district or vicinity. Conditional uses are issued for uses of land and, unless otherwise conditioned, are transferable from one owner of the land to another.

### Conference or Event Center<sup>1198</sup>

A facility containing over 20,000 square feet of gross floor area and designed to accommodate and support meetings or conferences. The facility may be either freestanding or incorporated into a hotel or office facility and may include eating and drinking facilities.

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<sup>1198</sup> New term and definition.

### Construction Office

A moveable or modular structure or trailer used for the storage of construction materials and/or the offices or work spaces for construction managers or workers during the time a principal or accessory building is being constructed.

### Continuing Care Retirement Facility<sup>1199</sup>

An establishment for care of the elderly that has common facilities and provides licensed intermediate and skilled nursing facilities for its residents, as well as other supportive services. This use generally includes a variety of housing types and provides a variety of levels of assistance and care so that its residents may obtain higher levels of care and service as they age without having to move to another residential care facility.

### Contractor Shop and Yard<sup>1200</sup>

A building and related outdoor areas used to store and maintain construction equipment and other materials and facilities customarily required in the building trade by a construction contractor. This use may include showrooms and shops for the display and sale of electrical, plumbing, heating, air conditioning, sheet metal, and other material in connection with contracting services.

### Convalescent or Nursing Home<sup>1201</sup>

An extended or intermediate care establishment licensed by the State of Idaho, that maintains and operates continuous day and night facilities providing room and board, personal services, and skilled nursing care to individuals who, by reason of advanced age, chronic illness, or infirmity, are unable to care for themselves. Such home does not contain equipment for surgical care or for the treatment of injury.

### Cubic Feet Second (CFS)

Measurement of the rate of flow of water in the river or tributary.

### Cul-de-sac

A dead-end street with turnaround space at its terminus.

### Cut

To grade into a hillside in order to create a flat area or to steepen a bank. The mechanical removal of earth material. Cut and Fill: The excavating of earth material in one place and depositing of it as fill in a different place.

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## D

### Damaged or Dilapidated Building<sup>1202</sup>

A primary or accessory building or structure that by reason of inadequate maintenance, damage by fire, flood, vandalism, obsolescence, or abandonment, is unsafe, unsanitary or that constitutes a fire hazard, or that no longer complies with the applicable building code requirements for a building of its type, or is otherwise dangerous to human life.

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<sup>1199</sup> New term and definition.

<sup>1200</sup> New definition.

<sup>1201</sup> New definition.

<sup>1202</sup> New in Consolidated Draft.

### **Dedication**

The setting apart of land or interests in land for use by the public. Land becomes dedicated when accepted by the applicable governmental body as a public dedication, either by Code or entry in the official minutes of that body.

### **Design Review Commission (DRC)<sup>1203</sup>**

The Design Review Commission that functions on behalf of the City of Boise Planning and Zoning Commission and reviews all applications that require Design Review.

### **Design Standards and Guidelines, Citywide<sup>1204</sup>**

The adopted document containing the building location and orientation, internal circulation, site design elements, building design, and landscaping standards for multifamily and nonresidential development outside of the Boise Downtown Planning Area.

### **Design Standards and Guidelines, Downtown<sup>1205</sup>**

The adopted document containing the building location and orientation, internal circulation, site design elements, and building design standards for multifamily and nonresidential development in the Boise Downtown Planning Area, as amended.

### **Designated Water Provider<sup>1206</sup>**

A municipal water provider that has prepared the requisite Assured Water Supply Examination of its water supply resources and obtained approval from the designated water resource official for a specific amount of assured water supply for future development.

### **Development, Existing**

Any development for which approval was given prior to the Effective Date such as concept plans entitling the applicant to proceed with preliminary or final platting, or a conditional use approval or Building Permit, and for which such approval has not expired. An extension of an existing approval after the Effective Date does not make a development an existing development.

### **Development, New**

Any development for which an application has been filed on or after the Effective Date of this Code or approval of which has been extended on or after the Effective Date of this Code.

### **Director**

The person appointed by the Mayor to be generally responsible for planning and zoning activities in the City and for the administration of this Code and their designees, also referred to as the "Planning Director."

### **Display, Outdoor**

Placement of items out-of-doors (i.e., not within a building) for show and sale to the general public. Examples of this use include garden supplies placed in commercial parking lots by home and garden or

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<sup>1203</sup> New definition.

<sup>1204</sup> New definition.

<sup>1205</sup> New definition.

<sup>1206</sup> New definition.

other stores during spring and summer time. This use does not include any use meeting the definition of "Outdoor Storage" or "Junkyard, Vehicle Salvage".

### District, Zoning

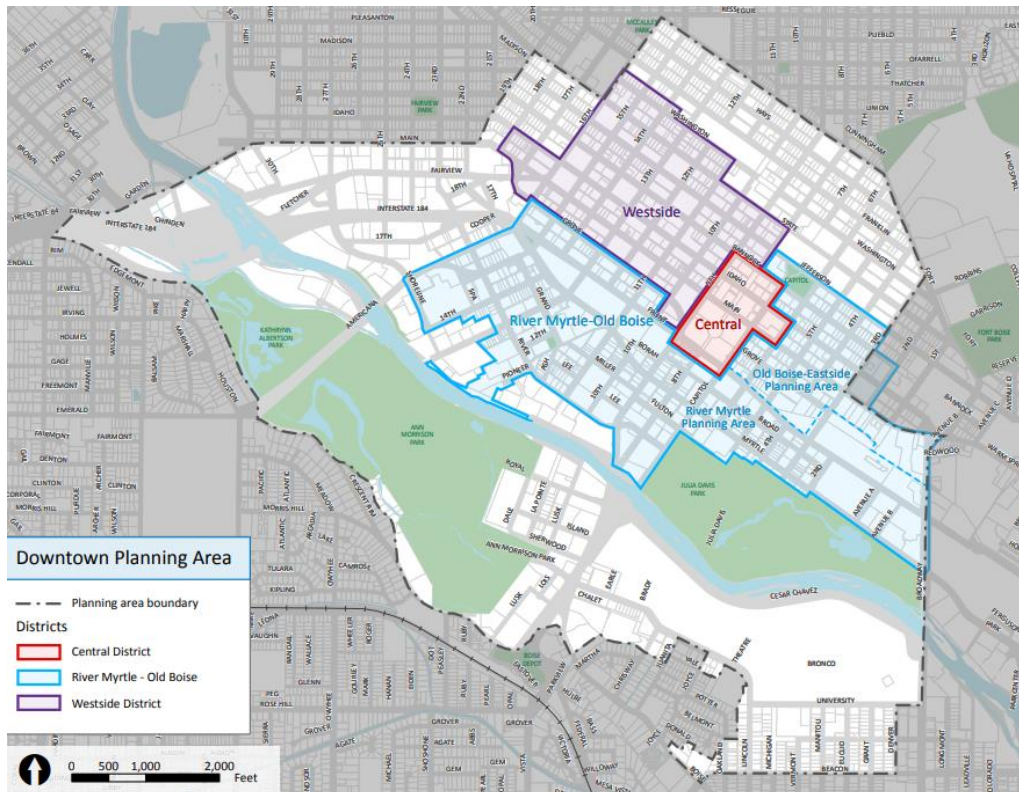
A geographically defined area of land within the City of Boise, as set forth in Chapter 11-02, *Zoning Districts*.

### District, Overlay

A zoning district that adds a requirement(s) to the standards of the underlying zoning district(s).

### Downtown Planning Area

The distinct planning area identified in the Comprehensive Plan bounded on its southwest side by the Boise River, the Boise Bench and Beacon Avenue, and generally by Broadway/ Avenue A on the southeast, Fort Street on the northeast, and 16th, 19th Street and Idaho Streets on the northwest.



### Drive, Service

A privately owned and maintained drive that provides access to parking lots and spaces, loading spaces, drive-up windows, or other areas that need a provision of access. Types of service drives include: individual private driveways, common driveways, entry drives, drive-through lanes, and drive aisles.

### Drive-Through Facility<sup>1207</sup>

A facility, building feature, or equipment at which an occupant of a vehicle may make use of the service or

<sup>1207</sup> New definition.

business without leaving their vehicle. This use includes drive-by parcel pickup facilities.

### **Driveway**

A private access connecting a building such as a house or garage, with a street.

### **Driveway, Common**

A shared access that serves for ingress and egress that serves multiple residential parcels or lots, each having public or private street frontage.

### **Driveway, Internal<sup>1208</sup>**

Individual driveways are those vehicular access ways separated from any other by a minimum of five feet of landscaping or similar material not designed to accommodate vehicles.

### **Driveway, Shared**

A shared access that serves for ingress and egress the serves multiple nonresidential parcels or lots, each having public or private street frontage.

### **Dwelling**

A building or portion a building containing one or more dwelling units. The term "dwelling" does not include any recreational vehicle, motel, hotel, guest house, or boarding house as defined in this Code.

### **Dwelling, Co-Housing<sup>1209</sup>**

A residential building that contains five or more individual sleeping units where each unit is designed for occupancy by a one or two individuals, and in which residents are required to sign occupancy agreements or leases for a period of at least 28 consecutive days Each unit may, but need not, contain food preparation or sanitary facilities, or both. The building may contain some combination of shared bath or toilet facilities and/or shared cooking or eating facilities for occupants. This use includes but is not limited to single-room occupancy facilities in which individual bedrooms contain neither food preparation nor sanitary facilities, but does not include any facility meeting the definition of an FHAA Group Home or Temporary Housing use.

### **Dwelling, Cottage Village<sup>1210</sup>**

A residential development that combines a group of small individual single-family dwelling units, each containing not more than 1,000 square feet of gross floor area, that may include Tiny Houses, on a single parcel of land. The development shall be oriented around a shared open space for communal use by the residents of the development, and may include a shared parking area and/or a shared community building (which may contain a shared kitchen and/or dining or eating area) for communal use by the residents of the development on a regular basis. This definition shall not include any use meeting the definition of a Manufactured Home Park.

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<sup>1208</sup> Relocated definition form within parking standard.

<sup>1209</sup> New term and definition.

<sup>1210</sup> New term and definition. Revised in Consolidated Draft to delete phrase "individually owned".

**Dwelling, Duplex<sup>1211</sup>**

A single building containing two dwellings on a single lot where each dwelling includes a separate bathroom and kitchen. The two units shall be able to function as dwelling units independently of each other, but may be located side-by-side, in front and behind, or above and below each other.

**Dwelling, Fourplex<sup>1212</sup>**

A single building on a single lot containing four dwelling units under one roof, each of which is designed for use and occupancy by one family.

**Dwelling, Live/Work<sup>1213</sup>**

A dwelling unit containing an integrated living and working space, and in which the living area is located above or behind the working space.

**Dwelling, Manufactured Home**

A factory-built structure that is manufactured or constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974, that became effective July 15, 1976, and is to be used as a place for human habitation, but that is not constructed or equipped with a permanent hitch or other device allowing it to be moved other than for the purpose of moving to a permanent site, and that does not have permanently attached to its body or frame any wheels or axles. Structures that are not manufactured or constructed in compliance with the National Manufactured Housing Construction and Safety Standards Act of 1974 are not Manufactured Homes and are prohibited within the city.<sup>1214</sup>

**Dwelling, Multifamily<sup>1215</sup>**

One or more buildings or portion of buildings on a single lot that contains five or more individual dwelling units, where each unit is occupied by one household and provided with an individual entrance to the outdoors or to a common hallway, and regardless of whether the dwelling units are owned or rented or condominium units. This definition includes Permanent Supportive Housing and shall not include "Dwelling, Single-family Attached," Dwelling, Duplex," "Dwelling, Triplex," "Dwelling, Fourplex," or "Accessory Dwelling Unit."

**Dwelling, Single-Family Attached<sup>1216</sup>**

Two or more attached single-family dwelling units attached side by side under one roof, in a townhouse or row house layout in which each unit:

- A. Shares one or two interior common vertical side or rear walls reaching from the building foundation to the roof structure;
- B. Has an entrance facing and giving direct entrance from the dwelling unit to at least one public or private street fronting the lot on which the unit is located; and
- C. Is designed for use and occupancy for one family.

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<sup>1211</sup> Revised to describe possible layouts.

<sup>1212</sup> New term and definition.

<sup>1213</sup> New term and definition.

<sup>1214</sup> Last sentence is new.

<sup>1215</sup> New definition.

<sup>1216</sup> New term and definition.



**Dwelling, Single-Family Detached<sup>1217</sup>**

A residential building designed for use and occupancy by no more than one family, and not attached at any point to a primary building intended for occupancy by another family (except an approved Accessory Dwelling Unit) or for any other principal use

**Dwelling, Tiny House<sup>1218</sup>**

A residence that is 400 square feet or less that is located on a permanent foundation and has allowances for lower ceiling heights, lofts, use of alternate stairways, ladders, alternating tread devices, ships ladders and egress roof access windows as noted in Appendix Q adopted in the International Residential Code.

**Dwelling, Triplex<sup>1219</sup>**

A single building on a single lot containing three dwelling units under one roof, each of which is designed for use and occupancy by one family.

**Dwelling Unit**

One or more rooms designed for or used as a residence for not more than one family, constituting a separate and independent housekeeping unit, with a single kitchen permanently installed. A dwelling unit may be occupied by a family by up to five unrelated individuals, or by persons with a disability or elderly persons living in a group home as defined in this Code. The term does not imply or include types of occupancy such as lodging or boarding house, club, sorority, fraternity, or hotel.

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**E**

**Easement**

A grant by the landowner of the right to use the owner's land for specific purposes.

**Electric Vehicle (EV)<sup>1220</sup>**

A vehicle that is either powered fully or partially by electric power.

**Electric Vehicle (EV) Capable<sup>1221</sup>**

A parking space or portion of a structure to which electrical and wiring infrastructure to support electric vehicle charging infrastructure has been installed, including the installation of an electrical panel capacity with a dedicated branch circuit(s) and a continuous raceway.

**Electric Vehicle Charging Facility<sup>1222</sup>**

A facility or area at which electric vehicles can obtain electrical current to recharge batteries and that is accessory to a principal use of the property.

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<sup>1217</sup> Added last clause for clarification.

<sup>1218</sup> New term and definition.

<sup>1219</sup> New term and definition.

<sup>1220</sup> New term and definition.

<sup>1221</sup> New term and definition.

<sup>1222</sup> New term and definition.



### Electric Vehicle Charging Facility, Level 2<sup>1223</sup>

An electric vehicle charging facility capable of supplying a 40-ampere dedicated, single-phase branch circuit rated at 208/240 volt from a building electrical panel.

### Electric Vehicle Charging Facility, DC Fast Charger<sup>1224</sup>

An electric vehicle charging facility, also referred to as a Level 3 charging facility, capable of supplying a 100-ampere dedicated, three-phase branch circuit rated at 480 volt from a building electrical panel.

### Electric Vehicle (EV) Installed<sup>1225</sup>

A parking space or portion of a structure that meets the definition of Electric Vehicle Ready and at which, in addition, an operable electric vehicle charger has been installed.

### Electric Vehicle (EV) Ready<sup>1226</sup>

A parking space or portion of a structure that meets the definition of Electric Vehicle Capable, and to which, in addition, a conduit with wiring terminating in a junction box or 240V charging outlet has been installed.

### Enhancement

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, improvement of natural resource functions and values beyond the minimum required for mitigation.

### Erosion

The process by which the soil and rock components of the earth's crust are worn away and removed from one place to another by natural forces such as wind and water.

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## F

### Family

A group of individuals related by blood, marriage, civil union, adoption, or guardianship functioning as a single and independent housekeeping unit or persons occupying a group home as defined in this Code, including but not limited to any group of persons whose right to live together or without undue restrictions are protected by the provisions of the federal Fair Housing Act Amendments of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Idaho,<sup>1227</sup>

### Façade<sup>1228</sup>

The outer wall of a building, regardless of whether it faces a street, alley, public area, natural feature, or other developed or undeveloped property.

### Facade Modulation

Stepping back or extending forward a portion of a building facade.

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<sup>1223</sup> New term and definition.

<sup>1224</sup> New term and definition.

<sup>1225</sup> New term and definition.

<sup>1226</sup> New term and definition.

<sup>1227</sup> Last clause is new.

<sup>1228</sup> New term and definition.

### **Feedlot**

A lot or parcel on which livestock are fed intensively in order to fatten them for market. Does not include short-term holding pens for auction facilities or meat packing establishments.

### **Fill**

A deposit of earth material placed by mechanical means.

### **Financial Institution<sup>1229</sup>**

An establishment that provides banking services, lending, or similar financial services to individuals and businesses. This definition includes those institutions engaged in the on-site circulation of cash money and check-cashing facilities, but shall not include bail bond brokers.

### **Fire, Police, or Public Safety Facility<sup>1230</sup>**

A center operated by a government agency, for the protection of citizens and property from, and for providing public responses to, crime, fire, injury, or other emergencies. This use may include administrative offices, storage of equipment, temporary detention facilities, and the open or enclosed parking of patrol vehicles.

### **Firing Range, Indoor**

A controlled area of activity inside an enclosed building specifically designed for the discharging of firearms at targets.

### **Flood Protection-Related Definitions<sup>1231</sup>**

#### **Accessory or Appurtenant Use or Structure**

A use or structure which is subordinate to the principal use structure on the same parcel and which serves a purpose customarily incidental to the principal use or structure. The accessory use or structure shall, in no instance, include a dwelling unit or be used for human habitation.

#### **Appeal**

A request to the Planning and Zoning Commission for a review of the Floodplain Administrator's interpretation of any provision of Section 11-02-07.3.C.

#### **Area of Shallow Flooding (ASF)**

An area shown on the flood insurance rate map as an AO zone with base flood depths from one to three feet where a clearly defined channel does not exist, where the path of flooding is unpredictable and indeterminate, and where velocity flow may be evident. These areas are also referred to as the alluvial fans if velocity data is provided on the FIRM, and are characterized as sheet flow.

#### **Area of Special Flood Hazard (ASFH)**

The land in a floodplain within Boise City which are subject to flooding from the base flood (or 100 year flood). These areas are also referred to as the Special Flood Hazard Area (SFHA). Designation on maps always include the letters A or V.

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<sup>1229</sup> Removed reference to Drive-Through Facilities.

<sup>1230</sup> New term and definition.

<sup>1231</sup> Carried forward current Section 11-08-09.

### **Base Flood**

The flood having a one percent chance of being equaled or exceeded in any given year, and is synonymous with "one-percent flood" and "100 year flood."

### **Base Flood Elevation (BFE)**

A determination by the Federal Insurance Administrator of the water surface elevations of the base flood, that is, the flood level that has a one percent or greater chance of occurrence in any given year. When the BFE has not been provided in a Special Flood Hazard Area, it may be obtained from engineering studies available from a Federal, State, or other source using FEMA-approved engineering methodologies. This elevation, when combined with the Freeboard, establishes the Flood Protection Elevation.

### **Base Flood Height in Areas of Shallow Flooding**

The height expressed in feet above adjacent grade to which flood waters can be expected to rise during a base flood. This height is determined by the Federal Insurance Administrator and is shown on the Flood Insurance Rate Map (FIRM). Adjacent grade is the highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

### **Base Zoning District**

The zoning district classification which is in effect on any given land for which standards are included in the Zoning Code of Boise City, Idaho dated July 2002, and as amended.

### **Basement**

Any area of the building with its floor sub-grade (below ground level) on all sides.

### **Check Dam**

A structure erected in a floodway which does not exceed 10 feet in height or impound more than fifty acre feet of water. For the purposes of Section 11-02-07.3.C, energy dissipating devices shall be considered to be check dams.

### **Crawl Space**

The area of a house or structure between the lowest finish floor and the bottom of the foundation excavation enclosed by continuous foundation walls.

### **Critical Facility**

A facility for which even a slight chance of flooding might be too great. Critical facilities include, but are not limited to schools, nursing homes, hospitals, police, fire and emergency response installations, installations which produce, use, or store hazardous materials or hazardous waste.

### **Development**

Any man-made change to improved or unimproved real estate, including but not limited to buildings or other structures, mining, dredging, filling, grading, paving, excavation or drilling operations, or storage of equipment or material.

### **Elevated Building**

For insurance purposes, a non-basement building which has its lowest elevated floor raised above ground level by foundation walls, shear walls, post, piers, pilings, or columns.

### **Elevation Certificate**

The Elevation Certificate is an important administrative tool of the NFIP. It is used to determine the proper flood insurance premium rate; it is used to document elevation information; and it may be used to support a request for a Letter of Map Amendment (LOMA) or Letter of Map Revision based on fill (LOMR-F).

### **Existing Manufactured Home Park or Subdivision**

A Manufactured Home community or subdivision for which the construction of facilities for servicing the lots on which the Manufactured Homes are to be affixed (including, at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed before the Effective Date of the adopted floodplain management regulations.

### **Expansions to an Existing Manufactured Home Community or Subdivision**

The preparation of additional sites by the construction of facilities for servicing the lots on which the Manufactured Homes are to be affixed (including the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads).

### **Federal Emergency Management Agency (FEMA)**

The agency with the overall responsibility of administering the national flood insurance program (NFIP).

### **Flood or Flooding**

1. A general and temporary condition of partial or complete inundation of normally dry land areas from:
  - a. The overflow of inland or tidal waters.
  - b. The unusual and rapid accumulation or runoff of surface waters from any source.
  - c. Mudslides (i.e., mudflows) which are proximately caused by flooding as defined in paragraph 2.a. of this definition and are akin to a river of liquid and flowing mud on the surfaces of normally dry land areas, as when earth is carried by a current of water and deposited along the path of the current.
2. The collapse or subsidence of land along the shore of a lake or other body of water as a result of erosion or undermining caused by waves or currents of water exceeding anticipated cyclical levels or suddenly caused by an unusually high water level in a natural body of water, accompanied by a severe storm, or by an unanticipated force of nature, such as flash flood or an abnormal tidal surge, or by some similarly unusual and unforeseeable event which results in flooding as defined in paragraph 1.a. of this definition.

### **Flood Insurance Rate Map (FIRM)**

An official map of a community, on which the Federal Insurance Administrator has delineated both the special flood hazard areas and the risk premium zones applicable to the community. A FIRM that has been made available digitally is called a Digital Flood Insurance Rate Map (DFIRM).

### **Flood Insurance Study (FIS)**

An examination, evaluation, and determination of flood hazards and, if appropriate, corresponding water surface elevations; or an examination, evaluation, and determination of mudslide (i.e., mudflow) and/or flood-related erosion hazards. Also known as a Flood Elevation Study.

### **Floodplain or Flood-Prone Area**

Any land area susceptible to being inundated by water from any source (see definition of "flooding").

### **Floodplain Management**

The operation of an overall program of corrective and preventive measures for reducing flood damage, including but not limited to emergency preparedness plans, flood control works, and floodplain management regulations.

### **Floodplain Management Regulations**

Zoning ordinances, subdivision regulations, building codes, health regulations, special purpose ordinances (such as a floodplain ordinance, grading ordinance, and erosion control ordinance), and other applications of police power. The term describes such state or local regulations, in any combination thereof, which provide standards for the purpose of flood damage prevention and reduction.

### **Flood-Proofing**

Any combination of structural and non-structural additions, changes, or adjustments to structures which reduce or eliminate potential flood damage to real estate or improved real property, water and sanitary facilities, structures, and their contents.

### **Flood Protection Elevation (FPE)**

The Base Flood Elevation plus the Freeboard.

1. In "Special Flood Hazard Areas" where Base Flood Elevations (BFEs) have been determined, this elevation shall be the BFE plus two feet of freeboard; and
2. In "Special Flood Hazard Areas" where no BFE has been established, this elevation shall be at least two feet above the highest adjacent grade.

### **Floodway (FW)**

The channel of a river or other watercourse and the adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than a designated height.

### **Floodway Fringe (FF)**

The area between the floodway boundary and the outer limits of the 100 Year Flood. These lands within Boise City are subject to flooding from the Base Flood (a.k.a. the 100 year Flood), and are also

referred to as part of the floodplain or the Area of Special Flood Hazard located outside of the floodway.

### Freeboard

A factor of safety usually expressed in feet above a flood level for the purposes of floodplain management. Freeboard tends to compensate for the many unknown factors that could contribute to flood heights greater than the height calculated for a selected size flood and floodway conditions, such as wave action, obstructed bridge openings, debris and ice jams, and the hydrologic effects of urbanization in a watershed. The Base Flood Elevation (BFE) plus the freeboard establishes the Flood Protection Elevation (FPE). Freeboard shall be a minimum of two feet.

### Letter of Map Amendment (LOMA)

An official amendment by letter, to an effective National Flood Insurance (NFIP) map. A LOMA establishes a property's or structure's location in relation to the Special Flood Hazard Area (SFHA). LOMAs are usually issued because a property or structure has been inadvertently mapped as being in the floodplain but is actually on natural high ground above the base flood elevation.

### Letter of Map Revision (LOMR)

FEMA's modification to an effective Flood Insurance Rate Map (FIRM) or a Flood Boundary and Floodway Map (FBFM) or both. LOMRs are generally based on the implementation of physical measures that affect the hydrologic or hydraulic characteristics of a flooding source and thus result in the modification of the existing regulatory floodway, the effective Base Flood Elevations (BFEs), or the Special Flood Hazard Area (SFHA). The LOMR officially revises the Flood Insurance Rate Map (FIRM) or Flood Boundary and Floodway Map (FBFM), and sometimes the Flood Insurance Study (FIS) report, and when appropriate, includes a description of the modifications. The LOMR is generally accompanied by an annotated copy of the affected portions of the FIRM, FBFM, or FIS report.

### Letter of Map Revision Based on Fill (LOMR-F)

FEMA's modification of the Special Flood Hazard Area (SFHA) shown on the Flood Insurance Rate Map (FIRM) based on the placement of fill outside the existing regulatory floodway. The LOMR-F does not change the FIRM, FBFM, or FIS report.

### Letter of Map Revision Conditional (CLOMR)

A formal review and comment as to whether a proposed flood protection project or other project complies with the minimum NFIP requirements for such projects with respect to delineation of special flood hazard areas. A CLOMR does not revise the effective Flood Insurance Rate Map (FIRM) or Flood Insurance Study (FIS). Upon submission and approval of certified as-built documentation, a Letter of Map Revision (LOMR) may be issued by FEMA to revise the effective FIRM. Building Permits and/or Flood Development Permits cannot be issued based on a CLOMR, because a CLOMR does not change the NFIP map.

### Levee

A levee is a continuous dike or ridge, constructed of earth or other materials that confines flood waters (excluding landfill).

### **Lowest Floor**

The lowest floor of the lowest enclosed area (including basement). An unfinished or flood resistant enclosure, usable solely for parking of vehicles, building access or storage, in an area other than a basement area, is not considered a building's lowest floor, provided that such enclosure is not built so as to render the structure in violation of the applicable non-elevation design requirements of Section 11-02-07.3.C.

### **Manufactured Home**

A structure, transportable in one or more Sections, which is built on a permanent chassis and is designed for use with or without a permanent foundation when attached to the required utilities. The term "Manufactured Home" does not include a "recreational vehicle."

### **Manufactured Home Community or Subdivision**

A parcel (or contiguous parcels) of land divided into two or more Manufactured Home lots for rent or sale.

### **Mobile Home**

A transportable, factory-built home designed to be used as a year-round residential dwelling and built prior to enactment of the National Housing and Safety Standards Act of 1974, which became effective July 15, 1976.

### **Mobile Home Park or Subdivision**

Any area, tract, plot, or parcel of land, developed and designed primarily for placement of mobile homes located and maintained for dwelling purposes on a permanent or semi-permanent basis.

### **New Construction**

For floodplain management purposes, a structure for which the start of construction commenced on or after the Effective Date of a floodplain management regulation adopted by a community and includes any subsequent improvements to such structures. Any construction started after April 17, 1984, and before the effective start date of this floodplain management ordinance is subject to the ordinance in effect at the time the permit was issued, provided the start of construction was within 180 days of permit issuance.

### **New Development**

Any development for which final approval entitling the applicant to proceed with the development was issued on or after the Effective Date of Section 11-02-07.3.C.

### **New Manufactured Home Community or Subdivision**

A Manufactured Home community or subdivision for which the construction of facilities for servicing the lots on which the Manufactured Homes are to be affixed (including at a minimum, the installation of utilities, the construction of streets, and either final site grading or the pouring of concrete pads) is completed on or after the Effective Date of adopted floodplain management regulations.

### **Nonresidential Structure**

A building other than a residential structure. The term includes but is not limited to: buildings used for places of assembly, education, child care, business, maintenance, storage, manufacturing, government, hospitals, sanitariums, and nursing homes.

### **One-Hundred Year Flood**

The flood having a one percent chance of being equaled or exceeded in any given year, and is synonymous with "Base Flood."

### **Ordinary High Water Mark (OHWM)**

The line which the water impresses on the soil by covering it for sufficient periods to deprive the soil of its vegetation and destroy its value for agricultural purposes.

### **Recreational Vehicle**

For floodplain management purposes, a recreational vehicle is a vehicle which is: (a) built on a single chassis, and (b) 400 square feet or less when measured at the largest horizontal projections, and (c) designed to be self-propelled or permanently towable by a light duty truck, and (d) designed primarily not for use as a permanent dwelling but as temporary living quarters for recreational, camping, travel, or seasonal use.

### **Regulatory Floodway (See Floodway)**

The channel of a river or other watercourse and adjacent land areas that shall be reserved in order to discharge the base flood without cumulatively increasing the water surface elevation more than one foot.

### **Residential Structure**

A building used as a dwelling for one or more persons. The term includes, but is not limited to houses, mobile homes, apartment buildings, lodging homes, dormitories, (and the guest or patient rooms of), hotels, and motels. The term also includes accessory use areas used in conjunction with and forming an integral part of a residential structure.

### **Special Flood Hazard Area (SFHA)**

Land in the floodplain within a community subject to a one percent or greater chance of flooding in any given year. For purposes of these regulations, the term "special flood hazard area" is synonymous in meaning with the phrase "Area of Special Flood Hazard".

### **Start of Construction**

- A. Includes substantial improvement, and means the date the Building Permit was issued, provided the actual start of construction, repair, reconstruction, rehabilitation, addition placement, or other improvement was within 180 days of the permit date. The actual start means either the first placement of permanent construction of a structure on a site, such as the pouring of slab or footings, the installation of piles, the construction of columns, or any work beyond the stage of excavation; or the placement of a Manufactured Home on a foundation.
- B. Permanent construction does not include land preparation, such as clearing, grading, and filling; nor does it include the installation of streets and/or walkways; nor does it include excavation for a



basement, footings, piers, or foundations or the erection of temporary forms; nor does it include the installation on the property of accessory buildings, such as garages or sheds not occupied as dwelling units or not part of the main structure. For a substantial improvement, the actual start of construction means the first alteration of any wall, ceiling, floor, or other structure part of a building, whether or not that alteration affects the external dimensions of the building.

### Structure

For the purpose of floodplain regulations, a structure is a walled and roofed building, including a gas or liquid storage tank that is principally above ground, as well as a Manufactured Home.

### Substantial Damage

Damage of any origin sustained by a structure whereby the cost of restoring the structure to its before-damaged condition would equal or exceed 50 percent of its assessed value<sup>1232</sup> before the damage occurred. See definition of "substantial improvement". Substantial damage also means flood-related damage sustained by a structure on two separate occasions during a 10 year period for which the cost of repairs at the time of each such flood event, on the average, equals or exceeds 25 percent of the market value of the structure before the damage occurred.

### Substantial Improvement

Any reconstruction, rehabilitation, addition, or other improvement of a structure, the cost of which equals or exceeds 50 percent of the assessed value<sup>1233</sup> of the structure before the "start of construction" of the improvement. This term includes structures which have incurred "substantial damage", regardless of the actual repair work performed. The term does not, however, include either:

1. Any project for improvement of a structure to correct existing violations of state or local health, sanitary, or safety code specifications which have been identified by the local code enforcement official and which are the minimum necessary to assure safe living conditions; or
2. Any alteration of a "historic structure", provided that the alteration will not preclude the structure's continued designation as a "historic structure" and the alteration is approved by variance issued pursuant to this ordinance.

### Unnumbered "A Zone"

An area shown on the Flood Insurance Rate Map as an "A Zone" in which base flood depths and a clearly defined channel are not shown.

### Variance

A grant of relief from the requirements of Section 11-02-07.3.C, which permits construction in a manner that would otherwise be prohibited by Section 11-02-07.3.C.

### Violation

The failure of a structure or other development to be fully compliant with the community's floodplain management regulations. A structure or other development without the Finished Construction Elevation Certificate, other certifications, or other evidence of compliance required in 44 CFR Parts

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<sup>1232</sup> Reference changed from market value.

<sup>1233</sup> Reference changed from market value.

60.3(b)(5), (c)(4), (c)(10), (d)(3), (e)(2), (e)(4), or (e)(5) is presumed to be in violation until such time as that documentation is provided

### Food Kitchen

A facility providing food to people with limited financial resources, including people who are experiencing homelessness.

### Food Truck<sup>1234</sup>

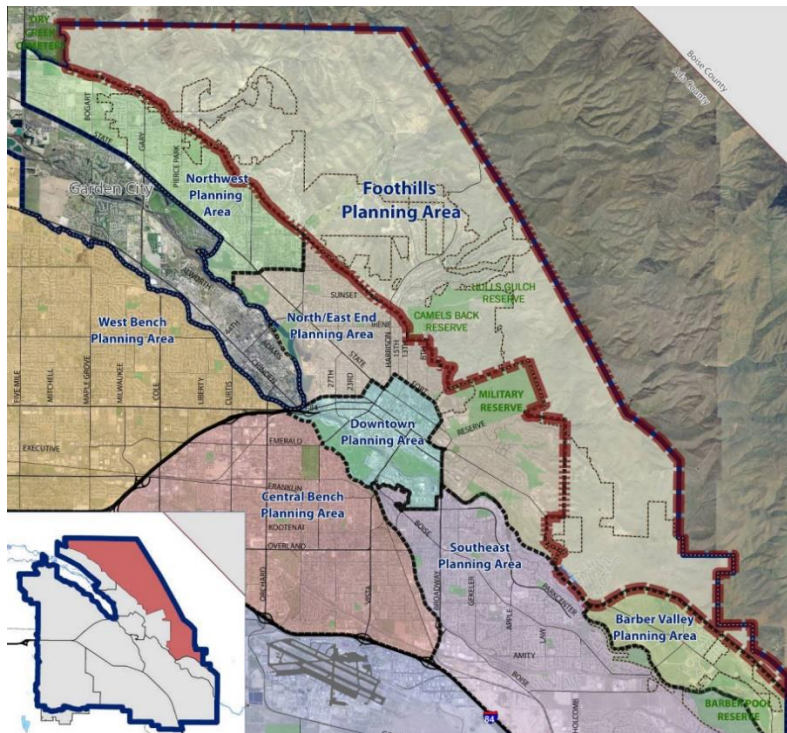
A motor vehicle or trailer with a current vehicle registration designed and equipped for the preparation and sale of food and/or beverages.

### Food Truck Court<sup>1235</sup>

An area of land on which one or more Food Trucks sell food and/or beverages to the public, and on which the public may consume food and/or beverages, that contains handwashing facilities, containers for the collection of recyclables and trash from the public, and other facilities required by the City for the protection of public health and safety.

### Foothills Planning Area

The planning area within the City of Boise's Area of City Impact characterized by critical wildlife and plant habitat, watershed and riparian environments, agricultural uses, and abundant recreational opportunities.



Foothills Planning Area Map

<sup>1234</sup> New term and definition.

<sup>1235</sup> New term and definition.

### **Forest Reserve or Recreation Area<sup>1236</sup>**

An area that preserves or protects forests, associated endangered species, critical environmental features, view sheds, or other natural elements and may include associated recreational uses such as hiking and nature observation.

### **Fraternal Hall**

The social use of a building or of any premises by a nonprofit association, where such use is restricted to enrolled members and their guests.

### **Fraternity or Sorority House<sup>1237</sup>**

A building or portion of a building used for sleeping accommodations, with or without accessory common rooms and cooking and eating facilities, for groups of students where the students living in the building are enrolled at the same college or university, are active members of the same fraternity or sorority, and the fraternity or sorority has been officially recognized by and maintains active affiliation with the college or university. This use shall also include a building or portion of a building in which individual rooms or apartments are leased to individuals, regardless of the ownership of the building, provided that the students living in the building are enrolled at the same college or university, are active members of the same fraternity or sorority, and the fraternity or sorority has been officially recognized by and maintains active affiliation with the college or university.

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## **G**

### **Golf Course<sup>1238</sup>**

A tract of land typically laid out for at least nine holes for playing the game of golf that may include a clubhouse, dining and snack bars, pro shop, and practice facilities.

### **Grain Elevator**

A facility or area for the temporary storage of grain for transferal to trucks, train cars, or other forms of transportation.

### **Greenbelt, Boise River**

Land within 70 feet of the 6500 c.f.s flow line of the Boise River that may be owned by the city or over which the city may have a right of possession or use and that:

- A. Is designated by the Council to be retained in perpetuity for public use for purposes compatible with the aesthetic, wildlife, educational, and recreational values of the Boise River; and
- B. Will provide unrestricted access to the river; and
- C. Will be developed and used to minimize water pollution, provide continuity of the public parks system, and create a buffer where necessary between conflicting land uses.

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<sup>1236</sup> New definition.

<sup>1237</sup> New definition. Expanded to include informal fraternity and sorority houses that are not owned by the organization, but house students in officially recognized fraternities and sororities.

<sup>1238</sup> New definition for existing term not currently defined.

### Group Home, FHAA Large<sup>1239</sup>

A residential dwelling or facility where nine or more persons are living, together with staff providing care, supervision, and treatment for the exclusive use of citizens whose rights to live together or without undue restrictions are protected by the provisions of the federal Fair Housing Amendments Act of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Idaho, including but not limited to facilities providing housing for people with disabilities or with mental illnesses.

### Group Home, FHAA Small<sup>1240</sup>

A residential dwelling or facility where eight or less persons are living, together with staff, as a single housekeeping unit providing care, supervision, and treatment for the exclusive use of citizens whose rights to live together or without undue restrictions are protected by the provisions of the federal Fair Housing Amendments Act of 1988, as defined in that Act and interpreted by the courts, or by any similar legislation of the State of Idaho, including but not limited to facilities providing housing for people with disabilities or with mental illnesses.

### Gulches, Foothills

Regulated gulches located in the foothills surrounding the City that are subject to flash flooding, where the Federal Emergency Management Agency or the Public Works Department have determined floodway and Floodway Fringe zones. Foothill gulches include, but are not limited to:

- A. Seaman's Gulch,
- B. Stuart Gulch,
- C. Pierce Park Gulch,
- D. Polecat Gulch,
- E. Crane Creek,
- F. Hulls Gulch,
- G. Cottonwood Gulch, and
- H. Warms Springs Gulch.

Gulch floodplains and associated alluvial fans (AO zones) are regulated under the floodplain regulations of this Code when specific flood studies or determinations have been approved by the City.

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## H

### Hazardous Materials<sup>1241</sup>

Hazardous or toxic material or substance, as set forth in Title 40, Code of Federal Regulations, Parts 116.4, 261.30 et seq., 302.4 and/or 355.

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<sup>1239</sup> New term and replaces current definition.

<sup>1240</sup> New term and replaces current definition.

<sup>1241</sup> New term and definition.

### Hearing Examiner<sup>1242</sup>

A City employee, or a person or firm on contract with the City, who reviews specific types of applications under authority delegated by a city decision-making body and/or makes decisions on some or all of those types of decisions pursuant to criteria established by City Council.

### Helipad/Heliport

A level area or pad, either at ground level or on a roof-top, where helicopters land and take off.

### Highest Adjacent Grade

The highest natural elevation of the ground surface prior to construction next to the proposed walls of a structure.

### Hillside and Foothill Areas

Areas with topographical slopes of 15 percent or greater, or where adverse slope stability, erosion, or sedimentation are likely to cause damage.

### Historic Easement

Any easement, restriction, covenant, or condition running with the land, designated to preserve, maintain, or enhance all or part of the existing state of places of historical, architectural, archeological, or cultural significance.

### Historic Institutional Use

As used in Section 11-02-07.1, *Character Protection Overlay Districts*, any school (public or private), church or other place of religious worship, commercial service use, or office use within a Character Protection overlay district that is significant to the history, architecture, or culture of the district.

### Hive

A structure intended for the housing of a bee colony.

### Historic Structure

Any structure that is:

- A. Listed individually in the National Register of Historic Places (a listing maintained by the Department of Interior) or preliminarily determined by the Secretary of the Interior as meeting the requirements for individual listing on the National Register;
- B. Certified or preliminarily determined by the Secretary of the Interior as contributing to the historical significance of a registered historic district or a district preliminarily determined by the Secretary to qualify as a registered historic district;
- C. Individually listed on a state inventory of historic places in states with historic preservation programs which have been approved by the Secretary of Interior; or
- D. Individually listed on a local inventory of historic places in communities with historic preservation programs that have been certified either:
  - 1. By an approved state program as determined by the Secretary of the Interior or

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<sup>1242</sup> New term and definition.

2. Directly by the Secretary of the Interior in states without approved programs.

#### **Home Occupation, Family Daycare Home<sup>1243</sup>**

A residential dwelling unit used as the primary residence of the day care provider where six or fewer adults or children, including children of the provider under age 13, receive care from a provider for a period of less than 24 hours per day.

#### **Home Occupation, Group Daycare Facility<sup>1244</sup>**

A residential dwelling unit used as the primary residence of the day care provider where seven to 12 adults or children receive care from the provider while unattended by a parent, legal guardian, or custodian for a period of less than 24 hours per day.

#### **Home Occupation, Other<sup>1245</sup>**

An activity or occupation carried on within a dwelling by members of the family occupying the dwelling and where the use of the home as an occupation shall be incidental and subordinate to the use of the home as a dwelling, except "Home Occupation, Adult or Child Day Care", unless this Code states that the activity or occupation is not treated as a Home Occupation

#### **Horticulture**

The activity of growing fruits, vegetables, flowers, or ornamental plants.

#### **Hospital**

An institution devoted primarily to the maintenance and operation of facilities for the medical or surgical care of patients 24 hours a day, including specialized and surgical hospitals. The term "hospital" does not include clinics, convalescent or boarding homes, or any institution operating solely for the treatment of people with mental illnesses, people with substance abuse disorders, or other types of cases necessitating forcible confinement of patients.

#### **Hotel or Motel<sup>1246</sup>**

An establishment in which lodging is provided and offered to the public for compensation, for periods of time not exceeding thirty days and that is commonly known as a hotel or motel in the community in which it is located. This use customarily provides services such as maid service, the furnishing and laundering of linen, telephone and secretarial or desk service, and the use and upkeep of furniture. This use may provide ancillary uses such as conference and meeting rooms, restaurants, bars, gift shops, and recreational facilities. The term "Hotel or Motel" does not include "Boarding or Rooming House," "Bed and Breakfast," "Shelter Home," except where separately permitted.

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<sup>1243</sup> Renamed from "Child Care Home" and new definition.

<sup>1244</sup> Renamed from "Group Child Care Home" and new definition.

<sup>1245</sup> New definition.

<sup>1246</sup> New definition.

I

### Impervious Surface

A surface that has been compacted or covered with a layer of material so that it is highly resistant to infiltration or absorption by water. Surfaces may include but are not limited to compacted sand or clay as well as most conventionally surfaced streets, roofs, sidewalks, and parking lots.

### Industry, Artisan<sup>1247</sup>

An establishment or business where an artist, artisan, or craftsperson teaches, makes, or fabricates crafts or products by hand or with minimal automation and may include direct sales to consumers. This definition includes uses such as small-scale fabrication but is not limited to, manufacturing, and other industrial uses and processes such as welding and sculpting.

### Industry, Heavy<sup>1248</sup>

The assembly, fabrication, or processing of goods and materials using processes that ordinarily have greater than minimal impacts on the environment, or that ordinarily have significant impacts on the use and enjoyment of adjacent property in terms of truck traffic, railroad activities, noise, smoke, fumes, visual impact, odors, glare, or health and safety hazards, or that otherwise do not meet the definition of "Light Industry." This use may include outdoor activities, outdoor storage, and indoor storage of flammable liquids or gases necessary to the processes on the premises. Heavy manufacturing generally includes processing and fabrication of products made from extracted or raw materials or products involving flammable, hazardous, or explosive materials and processes, uses involving the fabrication, use, or repair of heavy special purpose equipment. Examples of this use include atmospheric gas production plant, lumbermill or sawmill, tannery, asphalt, and concrete batch plant, bottling and distribution plants, and construction materials manufacturing unless performed on a scale that meets the definition of "Artisan Industry."

### Industry, Light<sup>1249</sup>

The assembly, fabrication, or processing of goods and materials using processes that ordinarily do not involve significant truck traffic or railroad operations and do not create material amounts of noise, smoke, fumes, odors, glare, or health or safety hazards outside of the building or lot where such assembly, fabrication, or processing takes place, and where such processes are housed entirely within an enclosed building, except as may be authorized in this Code. Light manufacturing generally includes processing and fabrication of finished products predominantly from previously prepared materials and includes processes not involving flammable or explosive materials. Examples of activities include but are not limited to brewing and distillation of liquor and spirits, commercial laundries, food products and wholesale bakeries, newspaper and printing establishments, hair products and barbering supplies, signs and other metal workings, architectural and artist supplies, ceramics and miscellaneous clothing or accessories, small medical or specialty equipment, or musical instruments; and assembly of small appliances or equipment.

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<sup>1247</sup> New term and definition.

<sup>1248</sup> New term and definition to reflect consolidated uses.

<sup>1249</sup> New term and definition to reflect consolidated uses.



### Interstate

One of a system of highways connecting the major cities of the 48 contiguous United States. No direct access to a property is provided.

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## J

### Jail or Detention Facility<sup>1250</sup>

A facility established by a law enforcement agency for the long-term detention of adult or juvenile persons while being processed for arrest or detention, awaiting trial, or for punishment and/or counseling as a result of sentencing by a court of jurisdiction for criminal or antisocial behavior.

### Junkyard, Vehicle Salvage

An outdoor space where junk, waste, or discarded or salvaged materials are stored or handled, including automobile wrecking yards, and yards for used or salvaged building and structural steel materials and equipment. Does not include yards or establishments for the sale, purchase or storage of used cars or machinery in operable conditions, and the processing of used, discarded, or salvaged materials as a part of a permitted manufacturing operation on the same premises.

---

## K

### Kennel

Any lot or premises or portion of a lot or premises on which five or more dogs, cats, and other household domestic animals are maintained, harbored, possessed, boarded, bred, or cared for in return for compensation or are offered for sale.

### Kitchen<sup>1251</sup>

That portion of a dwelling unit devoted to the preparation or cooking of food for the purpose of consumption by residents of the dwelling unit. Any food preparation area with complete cooking facilities (i.e., stove, oven and/or microwave oven, refrigerator, dishwasher, and sink) or with a natural gas stub or supply or a 220 volt electrical outlet/wiring is a kitchen for purposes of this Code.

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## L

### Landscaping

Any combination of living plants such as trees, shrubs, plants, vegetative ground cover or turf grasses, and may include structural features such as walkways, fences, benches, works of art, reflective pools, fountains, or the like. Landscaping shall also include irrigation systems, mulches, topsoil use, soil preparation, revegetation or the preservation, protection, and replacement of existing trees.

### Large Animals

Large animals include horses, mules, donkeys, llamas, and cows.

### Lighting-Related Definitions<sup>1252</sup>

When used in the context of lighting regulations, the following terms shall have the following definitions.

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<sup>1250</sup> New term and definition.

<sup>1251</sup> New definition to include more details regarding the type of cooking and other fixtures that are considered a kitchen.

<sup>1252</sup> All terms and definitions are new.



### Fixture

The assembly that houses the lamp(s) and can include all or some of the following parts: a housing, a mounting bracket or pole socket, a ballast, a lamp, a reflector, or mirror and/or a refractor lens.

### Floodlight or Spotlight

A light fixture or lamp that incorporates a reflector to concentrate the light output into a directed beam in a particular direction.

### Footcandle

A unit of light or density when the foot is the unit of measure. One foot-candle (fc) equals one lumen per square foot of area. When metric units are used, lux is the unit of light quantity. One lux equals one lumen per square meter of area. One foot-candle equals 10 and seventy-six hundredths (10.76) lux. For the purpose of establishing consistent measurements, both foot-candles and lux are measured at finished grade.

### Full-cutoff or Fully-shielded

A luminaire that allows no light emission above a horizontal plane through its lower light-emitting part.

### Glare

Light emitted without a lens or through a clear lens from a luminaire with an intensity great enough to reduce a person's ability to see, and in extreme cases to cause momentary blindness.

### Lamp

A generic term for a source of optical radiation (i.e. "light"), often called a "bulb" or "tube". Examples include incandescent, fluorescent, high intensity discharge (HID) lamps, and low pressure sodium (LPS) lamps, as well as light-emitting diode (LED) modules and arrays.

### Light Trespass

The shining of more than one foot-candle of light produced by a luminaire that shines beyond the boundaries of the property on which the fixture is located.

### Lumen

A unit of luminous flux. One foot-candle is one lumen per square foot.

### Luminaire

The complete lighting system, that includes the lamp(s) and fixtures.

### Nit

the amount of light output equal to one candela per square meter.

### Livable Space

The enclosed area of any building used for living area including but not limited to bedrooms, bathrooms, kitchens, living rooms, family rooms, dining rooms, porches, breezeways, and recreation rooms. Enclosed storage, utility, and parking areas are not considered livable space.

## Livestock

Livestock are animals kept outside the home in enclosures such as pens, barns, or corrals. The term includes cattle, llamas, mules, swine, sheep, goats, rabbits, poultry, domestic birds and any other grazing or foraging animal except those defined as pets.

## Livestock and Animals<sup>1253</sup>

Uses related to the keeping and care of livestock and pets.

## Lot

A tract or land that has been platted as a portion of a recorded subdivision and is intended as a unit for transfer of ownership or for development.

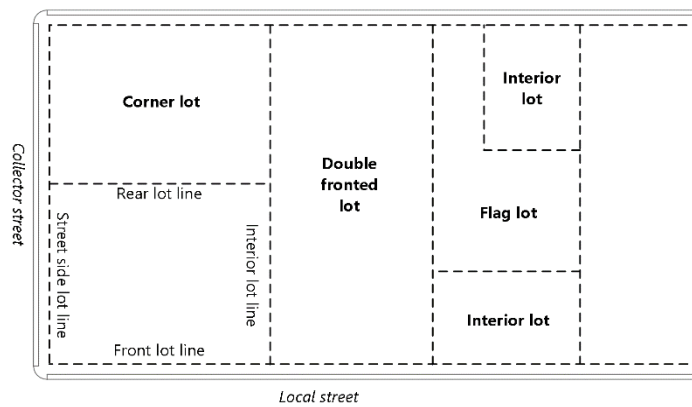


Figure 6-1. Lot Types

## Lot, Corner

A lot that is bounded on two or more sides by streets; where the angle of intersection of the streets does not exceed 135 degrees.

## Lot, Frontage

That portion of a lot that abuts a public right-of-way or other access. Lot, Interior: A lot other than a corner lot or reversed corner lot.

## Lot Line

The boundary property line encompassing a lot.

## Lot, Nonconforming

A lot of record that does not meet the dimensional requirements of this Code.

## Lot, Reversed Corner

A corner lot, the rear of which abuts upon the side of another lot, whether across an alley or not.

<sup>1253</sup> New definition.

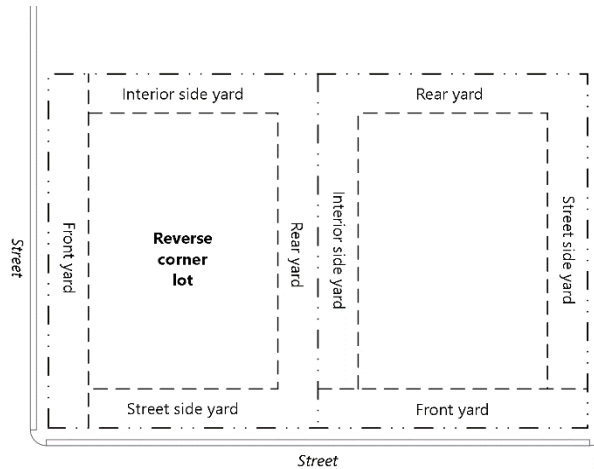


Figure 6-2. Reversed Corner Lot

### Lot Line, Front

The front lot line for a regular-shaped lot is the property boundary that abuts a public or private street; the front lot line for an undeveloped corner lot is either one of the property boundaries that abuts a public or private street, as selected by the property owner; the front lot line for a flag lot may be either:

- A. The closest line, parallel or most nearly parallel to the public or private street at the end of the flagpole, or
- B. A line perpendicular or nearly perpendicular to the public or private street at the end of the flagpole, depending upon which orientation provides for the closest matching of like yards of adjoining properties.

### Lot Line, Rear

The boundary line of a lot that is opposite and most distant from the front lot line. For the purpose of establishing the rear lot line, the following shall apply:

- A. In the case of a lot with a rear boundary formed by a single line that is parallel or nearly parallel to the front lot line, such rear boundary is the rear lot line.
- B. In the case of a lot with a rear boundary formed by two or more lines, the rear lot line shall be a line at least 10 feet in length within the lot that is furthest removed from and most parallel to the front lot line.

### Lot Line, Side

Any property line that is not a front or rear lot line.

## M

### Main Channel

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, a portion of the Boise River that is not defined as a side channel. This includes lands and waters below the high water mark and the 6500 c.f.s. setback line, connection with the main channel of the Boise River and all islands claimed by the State of Idaho.

### Manufactured Home Community<sup>1254</sup>

Any site, lot, tract, plot, or parcel of land, designed for the placement of 10 or more Manufactured Homes or Tiny Houses, located, and maintained for dwelling purposes on a permanent basis on individual lots, pads, or spaces; whether those lots, pads, or spaces be individually owned, leased, or rented.

### Maps, Zoning

The map or maps designating zoning districts.

### Maximum extent practicable<sup>1255</sup>

The applicant has taken all possible steps to comply with the standards or regulations and to minimize potential harmful or adverse impacts, and no other feasible or prudent alternative exists, given the conditions of the site and pre-existing constraints. The economic costs of further efforts to comply may be taken into account in determining whether additional efforts to comply are feasible or prudent, but shall not be the overriding factor. Constraints to full compliance that are self-created by the owner or previous owner of the land, such as those created by prior platting, development, or design decisions, shall not be considered sufficient justification for a determination that no feasible or prudent alternative exists. The applicant's failure to request or receive comments from other governmental agencies or from other owners of interests in or under the property, or an applicant's unwillingness to address or resolve issues raised in comments from such parties, or the applicant's desire to obtain approvals more than would be required to address or resolve comments received from such parties, shall not be considered sufficient justification for a determination that no feasible or prudent alternative exists.

### Medical or Dental Clinic

A facility for a group of one or more physicians for the examination and treatment of human patients, primarily engaged in furnishing, on an outpatient basis, chiropractic, dental, medical, surgical, medical imaging, or other services to individuals. Patients are not kept overnight except under emergency conditions. Ancillary laboratory facilities may be included.

### Microcell Wireless Communication Facility (WCF)

A small wireless communications facility consisting of an antenna that is either:

- A. Four feet in height and with an area of not more than 580 square inches; or
- B. If a tubular antenna, no more than four inches in diameter and no more than six feet in length.

### Mining and Extraction

Mining and extractive uses include the extraction of minerals, sand, gravel, and ores, and distribution of extracted materials, including the excavation, processing and distribution of clay, gravel, stone, and soils.

### Mitigation

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, measures to avoid impacts, minimize impacts, restore impacted areas, and compensate for impacts to a natural resource attributable to a proposed action.

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<sup>1254</sup> References to Tiny Houses is new.

<sup>1255</sup> New term and definition.

### Mitigation Sequence

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, a prescribed procedure for planning mitigation that requires negative impacts to a natural resource attributable to a proposed action to be mitigated.

### Mobile Food Truck<sup>1256</sup>

A retail food establishment that is not intended to be permanent and is a motorized wheeled vehicle, or a trailer that is licensed for use on public roadways, designed and equipped to serve food and beverages, operating in either a static or transitory location.

### Mobile Home, Rehabilitated

Any mobile home constructed prior to July 15, 1976 (the Effective Date of the National Manufactured Housing and Safety Standards Act of 1974), that are currently sited within Idaho or that may be brought into the state after July 1, 1998, that have been upgraded to comply with Chapter 25, Title 44, Idaho Code and received a "Certificate of Compliance" from the Division of Building Safety of the State of Idaho.

### Mortuary or Mausoleum<sup>1257</sup>

A facility in which deceased bodies are kept and prepared for burial or cremation or containing niches or other designated places intended to be a final resting place for human or pet animal remains as an alternative to land burial.

### Motor Vehicle Junked/Abandoned

Any automobile, truck, or other vehicle that is inoperable or in some obvious state of disrepair or abandonment. The following factors, among others, shall be considered individually in determining whether or not a vehicle is inoperable, junked, or abandoned:

- A. The vehicle is currently inoperable. This shall include, but is not limited to the vehicle not having body parts to be in working condition; such as missing engine, transmission, tires, windshield, mirror, taillight, head light, or battery;
- B. The vehicle has been parked for at least 30 days on property not owned or rented by the vehicle owner;
- C. The vehicle has not been licensed or registered for at least 30 days; and
- D. The vehicle has been parked for 30 days on property where the premises have been vacated.

### Multiple-Family<sup>1258</sup>

Any Household Living or Group Living use that contains more than four dwelling units.

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<sup>1256</sup> New term and definition.

<sup>1257</sup> New term and definition.

<sup>1258</sup> New definition for existing term in Consolidated Draft. Use when intended to include a broader set of residential uses than Multifamily Dwellings.

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## N

### Natural Resources

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, all of the plants, animals, and environmental and ecological processes that occur in aquatic, wetland, riparian, and upland environments associated with the Boise River.

### Natural Resource Functions and Values

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, environmental, ecological, recreational, historic, and cultural benefits attributable to natural resources that occur in aquatic, wetland, and riparian, and upland environments associated with the Boise River. They are further described in the Federal Highway Administration publication titled A Method for Wetland Functional Assessment and the US Army Corps of Engineers publication titled Wetland Evaluation Technique (WET) II.

### Neighborhood Cafe<sup>1259</sup>

An establishment that serves a limited menu of food items such as sandwiches and bakery goods and does not contain more than 2,000 square feet of gross floor area. Accessory uses to the service of food may include retail sales and the sale of non-alcoholic or alcoholic beverages.

### Nonconforming Parcel<sup>1260</sup>

A lawfully established parcel created prior to adoption of this Code that does not comply with the minimum lot size requirements of this Code.

### Nonconforming Sign<sup>1261</sup>

A lawfully established sign constructed or installed prior to adoption of this Code that does not comply with the sign regulations of this Code.

### Nonconforming Site Feature<sup>1262</sup>

Any aspect of a property other than its use, structures, or signs, including but not limited to amounts, types, and locations of parking, landscaping, buffering, or lighting, that lawfully existing prior to adoption of this Code, but that no longer comply with the standards of this Code.

### Nonconforming Structure<sup>1263</sup>

A lawfully established building or structure constructed or installed prior to adoption of this Code that does not comply with the area, height, or placement regulations of this Code. A nonconforming structure shall not be deemed to include signs.

### Nonconforming Use

Any use, parcel or structure that was legally established but that is not in compliance with this Code due to a subsequent Code amendment, annexation, change of zoning, eminent domain, or similar action as of the Effective Date.

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<sup>1259</sup> New term and definition.

<sup>1260</sup> New definition for existing term.

<sup>1261</sup> New definition for existing term.

<sup>1262</sup> New term and definition.

<sup>1263</sup> New definition for existing term.

### Nonresidential Structure

A building other than a residential structure. The term includes but is not limited to buildings used for places of assembly, education, child care, business, maintenance, storage, manufacturing, government, hospitals, sanitariums, nursing homes, hotels, and motels.

### No Net Loss

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, a measure of the success of mitigation that requires avoidance, minimization, restoration, and compensation of all functions, and values of a natural resource impacted by a proposed action.

### Nucleus Colony

A smaller colony used for educational purposes, queen maintenance and rearing, or for use in the capture and future integration of a swarm into a viable colony. A nucleus colony is comprised of significantly fewer bees than a conventional colony and is contained in a structure that is approximately one-half the size of a normal hive.

### Nuisance, Public

The following shall be defined as a public nuisance. The owner or person in control shall maintain all property, premises, or rights-of-way in a nuisance-free manner.

- E. Abandoned, dismantled, wrecked, inoperable, unlicensed, and discarded objects, equipment, or appliances such as, but not limited to vehicles, boats, water heaters, refrigerators, furniture not designed for outdoor use, household fixtures, machinery, equipment, cans, or containers standing or stored on property, sidewalks, alleys, and streets that can be viewed from a public street, walkway, alley, or other public property and are readily accessible from such places, or are stored on private property in violation of any other law or Code;
- F. Discarded putrescibles, garbage, rubbish, refuse, or recyclable items that have not been recycled within 15 days of being deposited on the property;
- G. Oil, grease, paint, other petroleum products, hazardous materials, volatile chemicals, pesticides, herbicides, fungicides, or waste (solid, liquid, or gaseous) that could constitute a fire or environmental hazard, or to be detrimental to human life, health, or safety;
- H. Lumber (excluding lumber for the construction project on the property with a valid Building Permit), salvage materials, including but not limited to auto parts, scrap metals, tires, other materials stored on premises in excess of 30 days and visible from a public street, walkway, alley, or other public property;
- I. Receptacles for trash, discarded materials, and recyclables that are left in the front yard or on public rights-of-way on any day except the day of the regularly scheduled refuse pick-up for the property;
- J. Swimming pool, pond, spa, other body of water, or excavation that is abandoned, unattended, unsanitary, empty, that is not securely fenced, or that poses a threat to be detrimental to human life, health, or safety; and
- K. Weeds, grasses, or other vegetation which (1) cover 50 percent or more of any lot or yard; (2) average 12 inches or more in height; and, (3) could become a fire hazard.

- L. Trees, shrubs, or other vegetation blocking public rights-of-way or clear vision triangles lower than a height of 8 feet above the rights-of-way or clear vision triangle.

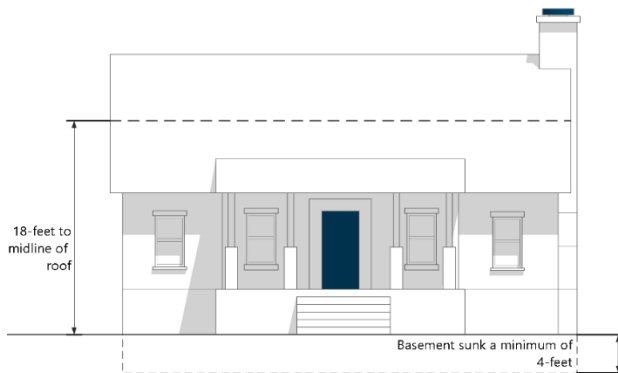
## O

### Office

An establishment primarily used for conducting the affairs of a business, profession, service, or industry, or like activity, that may include ancillary uses such as restaurants, coffee shop, and limited retail sales. This use includes radio or television stations and trade and vocational schools.

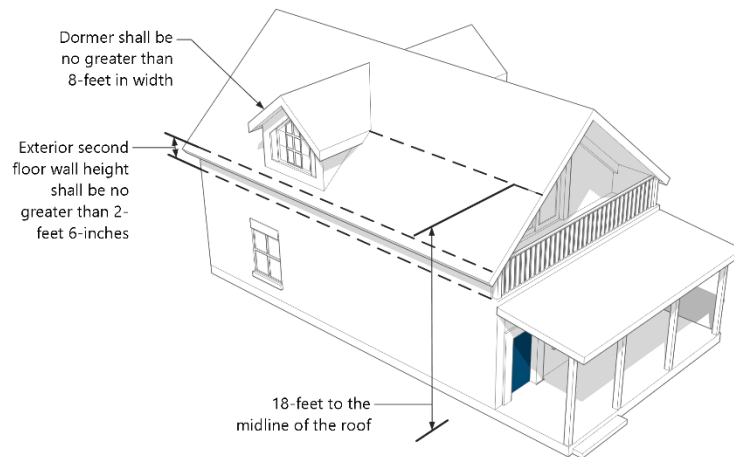
### One and One-Half Story Structure

A structure that does not exceed 18 feet in height to the midline of the roof. The structure also provides the second story within a basement that is sunk into the ground a minimum of four feet or is located within a pitched roofline located within a front gable, the exterior second floor wall height shall not exceed two feet six inches in height and contains a maximum of one dormer on each side of the structure that does not exceed eight feet in width.



**Figure 6.4 Example of Second Story Within A Basement**





**Figure 6-554. Example of a second story within a pitched roofline**

### Occupancy Permit

The approval to occupy a building that is granted after zoning and building requirements and conditions of approval, if any, have been met or bonded for.

### Open Space

An open area for a visual amenity, passive recreation, or active recreation.

#### Open Space, Private

Open Space designed for passive or active recreation developed, designated, and protected for the benefit and private use of the employees or residents within a development.

#### Open Space, Public<sup>1264</sup>

Open Space designed for passive or active recreation dedicated to the City or an entity approved by the City for the benefit and use of the public, which may include but is not limited to parks or trails required to be dedicated by this Code or otherwise offered to and accepted by the City for these purposes.

### Other Communications Towers<sup>1265</sup>

Any tower used for electronic communications or transmission of energy that does not meet the definition of a Wireless Communication Facility or that is not subject to the Federal Communications, including without limitation:

- A. A self-supporting, multiple sided, open steel frame structure used to support telecommunications equipment.
- B. A structure in a fixed location used as an antenna or to support antennas for the primary purpose of transmitting and/or receiving electronic signals. This definition includes nonresidential broadcast, communication, transmission, and similar towers, either freestanding or attached to an adjacent broadcasting or transmitting facility.

<sup>1264</sup> New term and definition.

<sup>1265</sup> Renaming and consolidation of current Lattice/Communications Towers use and Transmission Towers uses,

### Outdoor Storage<sup>1266</sup>

Storage of materials, merchandise, stock, supplies, machines, vehicles, equipment, vehicles (but not wrecked or inoperable vehicles), manufacturing materials, or personal property of any nature that are not kept in a structure having at least four walls and a roof, regardless of how long such materials are kept on the premises.

### Outdoor Storage, Accessory<sup>1267</sup>

An outdoor area used for the long-term deposit (more than 24 hours) of any goods, material, merchandise, or vehicles as an accessory use to and associated with a principal use on the property.

### Owner

The fee owner of the real property subject to this regulation. The owner may assign, in writing, application submittal and subdivision development authority to an applicant who is not the owner. To the extent an owner is applying for subdivision of property in its own name, such owner shall be the "applicant" for purposes of this Code.

---

## P

### Parcel

A lot or tract of land. Parcels are generally described by a metes and bounds legal description or references to quadrangular survey measurements utilizing Sections, townships and ranges, or government lots.

### Park

A parcel of land available to the public for passive and/or active recreation.

### Park and Ride Facility<sup>1268</sup>

A parking lot or structure designed to encourage transfer from private automobile to mass transit or to encourage carpooling for purposes of commuting, or for access to recreation areas.

### Parking Garage

A building or portion of a building consisting of one or more levels at, below, or above grade, designed to be used for the parking of automobiles and commercial vehicles that is available to the public, whether for compensation, free, or as an accommodation to clients or customers.

### Parking Lot

An open, graded, and surfaced area, other than a street or public right-of-way, to be used for the storage, for limited periods of time, of operable passenger automobiles and commercial vehicles, and available to the public, whether for compensation, free, or as an accommodation to clients or customers.

### Parking Lot, Temporary

A temporary parking lot for non-required parking where new building construction is planned.

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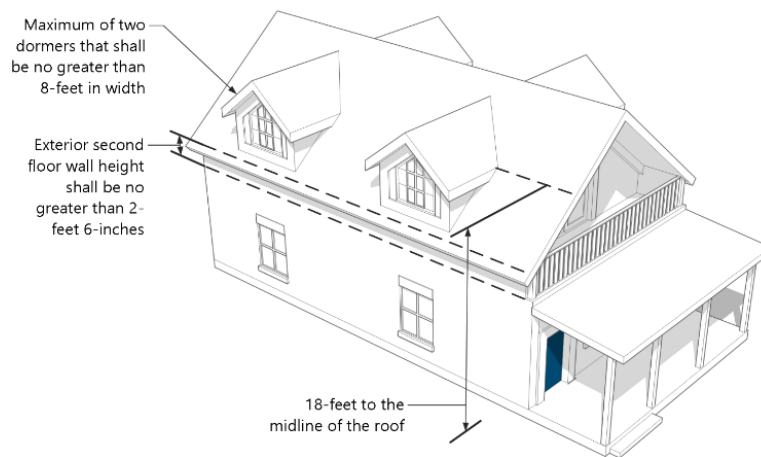
<sup>1266</sup> New definition.

<sup>1267</sup> New definition.

<sup>1268</sup> Removed current requirement for location on a public transit route to increase flexibility.

### Partial Two-Story Structure

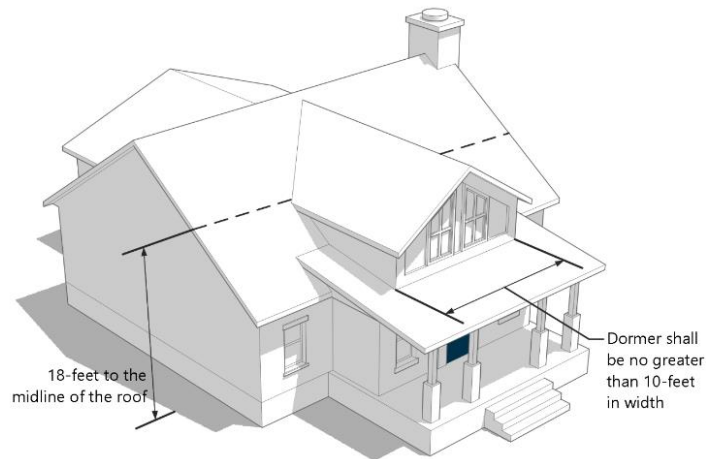
A structure that limits the second story floor plate to reduce the height, bulk, and massing of the structure. This can be achieved by increasing the second story setbacks by a minimum of three feet beyond the minimum front, side and rear setbacks required by the zoning district. It may also contain the second story within a pitched roofline located within a front gable and the building height is a maximum of 18 feet to the midline of the roof that has an exterior second floor wall height no greater than two feet, six inches in height and a maximum of two dormers with a maximum width of 8 feet located on each side of the structure. It may also contain the second story within a pitched roofline within a side gable and the building height is a maximum of 25 feet to the peak of the roof and 18 feet to the midline of the roof with any dormers on the front or rear of the structure no greater than 10- feet in width.



**Figure 6-4. Example of a Second Story Contained Within a Pitched Roofline with Two Side Dormers**



**Figure 6-5. Example of Setbacks Increased by a Minimum of Three Feet**



**Figure 6-6. Example of a Second Story Contained Within a Pitched Roofline with Front and/or Rear Dormers**

### Parking, Covered

A carport that provides full overhead protection from the elements with ordinary roof coverings.

### Parking, On-site

Any required parking space that is located on the same parcel, as the principal use that the parking is intended to serve.

### Parking Space

A usable space for the storage of one passenger automobile or commercial vehicle, exclusive of access drives, aisles, or ramps, within a public or private parking area or a building that meets the parking standards of this Code.

### Parking Space, Tandem

A parking space designed to accommodate two vehicles parked in tandem (one behind the other) that meets all the parking space dimensional standards as outlined in Section 11-04-07, *Parking and Loading*.

### Party of Record<sup>1269</sup>

The applicant for a permit, approval, or decision under this Code, or an individual appearing on their own behalf, or an individual with written authority to speak on behalf of an organization, whose name appears in the list of persons attending a public hearing or who filed written comments or testimony that was entered into the record of a public hearing.

### Paths, Bicycle and Pedestrian

Specifically refers to paved bicycle paths or unpaved pedestrian paths built within the Boise River System. Paved bicycle paths shall meet the requirements of the Bicycle/Pedestrian Design Manual for Ada County (and other appropriate and relative design manuals).

### Pathway

Any sidewalk, route, lane, path, corridor, open space, or trail designated to move people by non-motorized means for transportation or recreation, including micro-pathways.

<sup>1269</sup> New term and definition.

**Permanent Supportive Housing<sup>1270</sup>**

A residential dwelling in which housing assistance (e.g., long-term leasing or rental assistance) and supportive services are provided to assist occupants who may have at least one household member with a disabling condition.

**Person**

A natural person, heirs, executors, administrators, or assigns - including a firm, partnership, or corporation - it's or their successors or assigns, or the agent of any of the aforesaid.

**Personal or Business Service<sup>1271</sup>**

A facility that provides individualized services generally related to personal needs. These include but are not limited to laundry, including cleaning and pressing service, beauty shops, barbershops, shoe repair, personal copying/shipping services, health spas, photographic studios, tailor/seamstress shop, indoor equipment/party/event rental, tanning salon, bicycle and sports equipment repair, small appliance repair, tattoo parlors and similar uses.

**Pet<sup>1272</sup>**

Pets generally are animals that may be kept indoors, though pets may also be kept outdoors. Pets are dogs, cats, up to two goats, up to six chickens (excluding roosters), four ducks, six rabbits or other small animals or poultry as determined by the Planning Director.

**Planned Unit Development (PUD)**

A use or a combination of uses planned for a tract of land to be developed as a unit under single ownership or control and that may include two or more primary buildings.

**Planning and Zoning Commission (PZC)**

The City of Boise Planning and Zoning Commission.

**Plat, Condominium<sup>1273</sup>**

A drawing or set of drawings showing the division of land and/or airspace in a building on that land into individual, common, or other forms of ownership and responsibility, as required by applicable Idaho law.

**Plat, Subdivision Final**

The plat map of a subdivision, cemetery, condominium, or a replatting of such, prepared by a State of Idaho licensed land surveyor for filing and recording by the County Recorder and containing those elements required by this Code, including certification, descriptions, and final approvals. A Final Plat, upon its being filed and recorded by the County Recorder, shall be known as an authorized plat.

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<sup>1270</sup> New term and definition.

<sup>1271</sup> New definition to reflect use consolidations.

<sup>1272</sup> Revised from current to include two goats.

<sup>1273</sup> New term and definition.

### **Plat, Subdivision Preliminary<sup>1274</sup>**

A preliminary plan of a proposed subdivision or a proposed condominium project that contains all elements required by this Code and provides sufficient information to allow for public review and evaluation.

### **Plot Plan**

A "to scale" drawing of a lot or lots showing the actual measurements, the size and location of any existing building(s) to be erected, the location of the lot in relation to abutting streets, use and development of the land, and other such information. "Site plan" is a term that is often used interchangeably with plot plan.

### **Power Plant<sup>1275</sup>**

A principal use of land that generates electrical energy, including but not limited to any facility meeting the definition of a Renewable Energy Facility, Accessory, if it were an accessory rather than a principal use of land.

### **Principal Dwelling**

The primary building designed and used for human habitation on a property. Principal Use: The main use of land or buildings, as distinguished from a subordinate or accessory use.

### **Project Engineer**

Professional engineer registered in the State of Idaho retained by the developer to supervise a specific development or phase of a development.

### **Property Line Adjustment**

A property line adjustment that establishes buildable parcels with boundaries that differ from existing buildable parcel and/or buildable lot boundaries.

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## **Q**

### **Quasi-public Use**

A use that is essentially public, although it is under private ownership or control.

### **Quorum**

A majority of the authorized members of a board or commission.

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## **R**

### **Recreation, Indoor<sup>1276</sup>**

Facilities for entertainment, sports, and recreational activities such as bowling, billiards, arcades, skating, swimming, tennis, teen clubs, escape rooms, archery and axe-throwing, trampolines, and similar indoor activities taking place inside an enclosed building. Indoor recreation includes establishments for weddings, birthdays, dances, celebrations, and other similar special events.

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<sup>1274</sup> New term and definition.

<sup>1275</sup> New term and definition.

<sup>1276</sup> New definition to reflect consolidated uses.

### Recreation, Outdoor<sup>1277</sup>

Commercial entertainment, recreation, or games of skill where any portion of the activity takes place outside of a building. Such activities include, but are not limited to ball parks (baseball, football, soccer, tennis), water park, batting cages miniature golf, go-cart tracks, amusement parks, golf driving ranges, swimming pools, and other similar uses.

### Recreational Vehicle (RV)

A portable vehicle or structure used primarily for recreation, hobbies, vacations, extended travel, camping, sports, and aquatic use. An RV may be self-propelled, towed, or transported by trailer. Includes but is not limited to motor homes, converted buses, camping, and travel trailers, light-duty trailers and transporters, horse and cattle trailers, boats, rafts and their trailers, and off-street vehicles such as snowmobiles, dune buggies, all-terrain vehicles, and any type of three or four-wheeled sport racing or drag vehicle.

Recreational vehicles are for the sole purpose of recreational use and shall not be used as a dwelling or temporary or permanent residential use.

### Recreational Vehicle Park

Any area, tract, plot, or site of land whereupon two or more recreational vehicles or travel trailers are placed, located, and maintained for temporary living quarters on a temporary basis.

### Recycling Collection Facility

A facility in which recoverable resources such as newspapers, glassware, plastics, and metal cans are recycled, reprocessed, and treated to return such products to a condition in which they can again be used for production.

### Religious Institution<sup>1278</sup>

A building or property that is used primarily for religious worship and related social, service, care, or educational activities.

### Renewable Energy Facility, Accessory<sup>1279</sup>

The use of land for:

- A. Solar collectors or other devices or structural design features of a structure that rely upon sunshine as an energy source and is capable of collecting, distributing, or storing the sun's radiant energy for a beneficial use;
- B. Land area and equipment for the conversion of natural geothermal energy into energy for beneficial use; or
- C. Wind energy systems.

### Repair

The reconstruction or renewal of any part of an existing building for the purpose of its maintenance. The word "repair" or "repairs" shall not apply to any other change in a structure such as would be required by additions to or remodeling of such structure.

<sup>1277</sup> New definition to reflect consolidated uses.

<sup>1278</sup> Wording revised to include social and educational activities, which are generally protected by federal law when conducted in association with religious worship or practices.

<sup>1279</sup> New term and definition.

### Residential Floor Area

Amount of all livable space including basements and bonus rooms.

### Residential Structure

A building used as a dwelling for one or more persons. The term includes, but is not limited to houses, mobile homes, apartment buildings, lodging homes, and dormitories. The term also includes accessory use areas that are used in conjunction with and form an integral part of a residential structure.

### Restaurant<sup>1280</sup>

Any land, building or part of a building, other than a boarding house, where meals are provided for compensation, including but not limited to a cafe, cafeteria, coffee shop, lunch room, tea room, and dining room, but not including any use meeting the definition of a Neighborhood Café, Tavern or Lounge or a Brewpub, Micro-distillery, or micro-winery.

### Retail Sales<sup>1281</sup>

Establishments engaged in selling goods or merchandise to the general public for personal or household consumption and rendering services incidental to the sale of such goods. This use does not include any form of retail sales or other use listed separately in Table 11-03.1: *Table of Allowed Uses*.

#### Retail Sales, Neighborhood

A facility or establishment with up to 2,000 square feet of gross floor area.

#### Retail Sales, Small

A facility or establishment with up to 5,000 square feet of gross floor area.

#### Retail Sales, Medium

A facility or establishment with between 5,001 and 10,000 square feet of gross floor area

#### Retail Sales, Large

A facility or establishment with between 10,001 and 60,000 square feet of gross floor area.

#### Retail Sales, Big Box

A facility or establishment with more than 60,000 square feet of gross floor area.

### Riparian Area

Relating to or living or located on the bank of a natural water course as a stream or river; or the stream corridor consisting of riparian vegetation, stream carved topography, and features that define a continuous corridor on either side of a stream or pond; or all lands within and adjacent to areas of groundwater discharge, or standing and flowing surface waters where the vegetation community is significantly affected by the temporary, seasonal, or permanent presence of water. Examples include springs, seeps, creeks, streams, rivers, ponds, and lakes and their margins.

### Riparian Community

All plant and animal species within a given riparian area.

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<sup>1280</sup> New definition.

<sup>1281</sup> New terms and definitions.



### **Riparian Habitat**

A riparian area where a plant or animal lives; the sum total of environmental conditions in the area. It may also refer to the place occupied by an entire community of plants or animals.

### **Roof**

The outside top covering of a building or structure.

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## **S**

### **Safety Facility<sup>1282</sup>**

A facility that is designed to protect public safety on a temporary basis following the annexation of land, or in times of natural disaster or emergency circumstances, which may include but is not limited to a temporary station for fire protection and police protection, or a temporary facility to provide relief or assistance services to the public, including those experiencing homelessness, or to a facility to provide services related to the administration or management of such relief or assistance services.

### **Sales and Leasing Office<sup>1283</sup>**

A moveable or modular structure or trailer temporarily used for the sale or leasing of real estate.

### **Sanitary Landfill**

A planned and approved method or system of waste disposal in which the waste is disposed or buried in layers, compacted by earth or other approved methods, also known as sanitary landfill, or a facility where solid waste is burned prior to disposal.

### **School**

An institution of learning, whether public or private, that offers instruction to a group of children in those courses of study required by the Idaho Department of Education. This definition includes nursery school, kindergarten, elementary school, junior high school, senior high school, or any special institution of learning under the jurisdiction of the Idaho Department of Education, but it does not include a vocational or professional school or any institution of higher education, including a college or university.

### **Seasonal Sales<sup>1284</sup>**

Any business or use (primary or accessory) that may include but not be limited to retail sales of garden supplies and equipment; roadside stands for the sale of fruits and vegetables, plants, flowers, Christmas trees, pumpkins, fireworks; and other similar businesses or uses.

### **Self-Service Storage**

An outdoor area or a building(s) that are designed or used exclusively for storage of excess property of an individual, family, or business. Buildings are divided into individually accessed units. This shall not be deemed to include the day-to-day operations of businesses of any kind.

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<sup>1282</sup> New.

<sup>1283</sup> New term and definition.

<sup>1284</sup> New definition.

### **Service Station<sup>1285</sup>**

A facility limited to retail sales to the public of gasoline, biodiesel, electricity, ethanol fuel blends, hydrogen, natural gas, or other fuels for motor vehicles, as well as motor oil, lubricants, travel aides, and minor automobile accessories. Accessory use may include a car wash and convenience food and beverage sales.

### **Setback**

The space on a lot or parcel that is required to be left open and unoccupied by buildings or structures, either by the requirements of this Code or by delineation on a recorded subdivision map.

### **Sexually Oriented Business<sup>1286</sup>**

Any establishment where employees engage in specified sexual activities or display specified anatomical areas.

### **Sexually Oriented Business Employee**

Any person who performs any service on the premises of a Sexually Oriented Business, on a full time, part time, or contract basis, whether or not the person is denominated as an employee, independent contractor, agent, or otherwise. Employee does not include a person exclusively on the premises for repair or maintenance of the premises or for the delivery of goods to the premises.

### **Shared Reserve Areas**

Are those areas on a given lot on which the animals on neighboring lots are allowed, on a weekly or more frequent basis, to occupy for grazing or other activities.

### **Shelter Home**

A facility providing basic services that may include food; personal hygiene support; information and referrals; employment, mail and telephone services; including overnight sleeping accommodations, to people with limited financial resources, including people who are homeless.

### **Side Channel**

A stream or watercourse, either natural or manmade, that generally flows from or into the Boise River. This includes waterways developed as amenities in residential or commercial developments.

### **Sidewalk Café<sup>1287</sup>**

An area of the public right-of-way that is designed as a public sidewalk and on which the City permits private dining activities to occur, subject to limitations on design, facilities, and operations designed to protect public safety on remaining portions of the sidewalk area.

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<sup>1285</sup> New definition.

<sup>1286</sup> New definition that avoids definition of specific types of adult uses that can become outdated as markets change. Definitions for adult arcade, adult bookstore, adult cabaret, adult motion picture theater, adult theater, and sexual encounter premises are not carried forward.

<sup>1287</sup> New term and definition.

## Sign-Related Definitions<sup>1288</sup>

### Animated Sign

Any sign that uses movement or change of lighting to depict action or to create a special effect or scene or the illusion of movement. A sign utilizing static message displays as allowed in 11-010-05.6 shall not be considered animated.

### Awning Sign<sup>1289</sup>

The copy areas or separate background area attached to any shelter or decorative dimensional shape extending from the exterior surface of a building constructed of a supporting framework and covered with fabric or other non-rigid materials that may be raised or retracted to a flat position against the building, and that does not meet the definition of a Canopy Sign or Marquee Sign.



### Banner

A flexible substrate on which copy or graphics may be displayed.



### Canopy Sign<sup>1290</sup>

The copy areas or separate background area attached to a permanent structure made of plastic, metal or other substance and providing a roof-like shelter over a public or quasi-public right-of-way, and that does not meet the definition of an Awning Sign or Marquee Sign.

<sup>1288</sup> New grouping of all sign-related definitions.

<sup>1289</sup> New

<sup>1290</sup> New.



### Center Sign<sup>1291</sup>

A freestanding sign on the site of a property with multiple tenants or occupants, and which is sized or designed to reflect the number of tenants or occupants on the property.



### Construction Sign

Any sign that warns of construction or demolition or that describes a construction project and indicates the builder, architect, or others involved.



### Directional Sign

A sign that is designed and erected for the purpose of providing direction for pedestrian or vehicular traffic.

<sup>1291</sup> New definition for an existing term for better clarity.



### Electronic Message Display

A sign or portion thereof capable of displaying words, symbols, figures, or images that can be electronically or mechanically changed by remote or automatic means.



### Freestanding Sign

A sign supported by a column, pole, foundation, pedestal, or other structure in or upon the ground.



### Frame

A complete, static display screen on an electronic message display.

### Frame Effect

A visual effect on an electronic message display applied to a single frame.

### Height of Sign

The distance from the ground supporting the sign to the highest point of the sign. A landscape berm or other structure erected to support the sign shall be measured as part of the height. If the street to which the sign is oriented is higher than the grade at the base of the sign, then the street elevation shall be used in determining the permitted height.

### Mansard

A sloped roof-like projection that is attached to an exterior building wall or facade.



### Marquee Sign<sup>1292</sup>

The copy areas or separate background area attached to a structure over an entrance to a theater and similar entertainment use, that provides changeable copy that relates to the principal use in the building, and that does not meet the definition of an Awning Sign or Canopy Sign.

### Monument Sign

A freestanding sign in which the sign face is supported by a continuous and solid base which extends the full length of the sign face or is supported by posts not more than six inches above the ground on which the sign face is mounted.



### Nit

A luminance unit equal to one candela (one candle) per square meter measured perpendicular to the rays from the source.

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<sup>1292</sup> New.

### Projecting Sign

A sign other than a wall sign, which projects from and is supported by a wall of building or other structure.



### Roof Sign

A sign erected on the roof of a building. Signs mounted on mansard facades, eaves, and architectural projections such as canopies or marquees shall not be considered to be roof signs.



### Sign

Any device visible from a public right-of-way that displays either commercial or noncommercial messages by means of graphic presentation of alphabetic or pictorial symbols or representations. Noncommercial flags or any flags displayed from flagpoles or staffs will not be considered signs.

### Sign Area

The area comprising the message portion of a sign, not including the supporting structure. When computing the area of sign background, only the face or faces, which may be seen from one direction at one time, shall be considered. It is computed by measuring the area enclosed by straight lines drawn around the extremities of the text or graphics.

### Sign Structure

Any structure that supports a sign, including any decorative cover.

### Temporary Sign

A sign that is used only temporarily and is not permanently mounted or embedded in the ground.



### Wall Sign

A sign that is affixed to or painted on an exterior wall of a building or structure.



### Window Sign

A sign affixed to the surface of a window that is intended to be viewed from the public right-of-way or from adjacent property.



### Site Plan<sup>1293</sup>

A "to scale" drawing of a lot or lots showing the actual measurements, the size and location of any existing building(s) to be erected, the location of the lot in relation to abutting streets, use and development of the land, and other such information.

### Slaughterhouse, Rendering Plant

A facility for the slaughtering and processing of animals and refining of animal byproducts.

### Small Animals

Small animals include rabbits, poultry, geese, ducks turkeys, domestic birds, and game birds, excluding such birds as are caged and housed in the dwelling and other animals deemed as such by the Planning Director and not raised for commercial purposes. FFA, 4-H and other student projects are not considered commercial purposes.

### Small Lot<sup>1294</sup>

For the purpose of Section 11-04-03.3, *Residential Small Lots*, a newly created lot of 3,500 square feet or less in the Residential zoning districts or a Substandard Original Lot of Record in the Residential zoning districts.

<sup>1293</sup> Removed "plot plan" as the term is no longer used in the Code text.

<sup>1294</sup> New term and definition.



### **Solid Waste Transfer Facility<sup>1295</sup>**

A facility at which non-hazardous refuse awaiting transportation to a disposal site is transferred from one type of collection vehicle to another. Refuse may be sorted and repackaged at a transfer station.

### **Special Allowed Use<sup>1296</sup>**

An allowed use where the site and building design significantly impacts the future anticipated build out of the City, and that is subject to additional conditions on the form of the building in which the use is located.

### **Specified Anatomical Areas**

Any of the following parts of the human body with less than full opaque coverings: the human genitals, anus, cleft of the buttocks, or the female breast.

### **Specified Sexual Activities**

Shall mean and include any of the following whether actual or simulated:

- A. The fondling or other erotic touching of any specified anatomical areas;
- B. Masochism, erotic, or sexually oriented torture, beating, or the infliction of pain;
- C. Sexual intercourse, masturbation, sodomy, oral copulation, coitus, ejaculation;
- D. Excretory functions as part of or in connection with any of the activities set forth in (A) through (C) above;
- E. Erotic or lewd touching, fondling, or other contact with an animal by a human;
- F. The exposure or display of human genitals in a state of sexual stimulation, arousal, or tumescence; or
- G. Erotic dancing or rhythmic movements with a device, instrument, object, or pole.
- H. Under no circumstance shall the issuance of Conditional Use Permit be considered an affirmative defense or consent by the City of Boise for any activity that is prohibited by federal or state law, or any other prohibition not a part of this Section of the Code.

### **Stable, Private**

A detached accessory building or structure for the keeping of one or more horses or cows that is owned and used by the occupant of the premises and not for remuneration, hire, or sale.

### **Stable, Riding**

A building or structure used or designed for the boarding or care of riding horses.

### **Street**

The public right-of-way or private property and related improvements that provides vehicular and pedestrian access to adjacent properties. The term "street" also includes the terms highway, thoroughfare, parkway, thruway, road, roadway, avenue, boulevard, lane, place, and other such terms.

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<sup>1295</sup> New term and definition.

<sup>1296</sup> New in Consolidated Draft.

### Street, Arterial

Any street as designated by the ACHD, the Idaho Transportation Department and/or Community Planning Association of Southwest Idaho (COMPASS), whether existing or proposed, with a primary purpose of carrying through traffic and designed with limited access to abutting property. Direct lot access is prohibited.

### Street, Collector

Any street, as designated by the ACHD, existing or proposed, with a primary purpose and design to intercept traffic from the local street system and carry it to the nearest arterial street, while provided limited access to abutting property. Direct lot access is prohibited.

### Street Frontage

Distance measured along the property line that fronts upon a street or alley. To constitute frontage, the subject street or alley must provide access to abutting properties.

### Street, Gateway

Streets within the city as listed below:

- A. Broadway Avenue, from I-84 to Warm Springs Avenue,
- B. Capitol Boulevard,
- C. Federal Way, from Capitol Boulevard to Bergeson Street,
- D. Front Street,
- E. Myrtle Street,
- F. Parkcenter Boulevard,
- G. State Street, from the State Capitol to State Highway 55,
- H. Vista Avenue, from I-84 to Capitol Boulevard, and
- I. Warm Springs Avenue.

### Street, Local

Any public street, other than an arterial or collector, designed to provide access to abutting property and principally serves local traffic.

### Street, Private

A street approved by the Council in conformance with the subdivision regulations of this Code that provides both access and street frontage for individual lots. Private streets are owned and maintained by private individual(s) or entities. Governmental entities do not own nor maintain private streets.

### Street, Public

A right-of-way that provides vehicular and pedestrian access to adjacent properties, the dedication of which has been officially accepted by the Ada County Highway District. The term "street" also includes the terms highway, thoroughfare, parkway, road, avenue, boulevard, place, and other such terms.

### Street Vista

The view, framed by buildings, at the termination of the axis of a thoroughfare.

### Structure

For purposes of applying the regulations in this Code, excluding those related to floodplain and wireless communication facilities, anything constructed or erected, except a fence, that requires location on the ground or is attached to something having location on the ground including, but not limited to buildings, platforms, framework, antennas, portable carport or cover, prefabricated metal, or plastic sheds and tents.

### Subdivision

The division of a lot, tract, or parcel of land into two or more lots for the purpose of transfer of ownership or for the construction of improvements thereon, whether immediate or future, including dedication of streets.

### Substandard Original Lot of Record

Any single recorded platted lot held in one ownership that was of record and a legal buildable lot or parcel before August 16, 1966, or at annexation, whichever occurred first, and that has not had subsequent boundary changes but that does not meet a minimum width of 50 feet and minimum area of 5,000 square feet for interior lots or minimum width of 70 feet and minimum area of 7,000 square feet for corner lots.

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## T

### Tavern or Lounge<sup>1297</sup>

An establishment primarily engaged in the preparation and retail sale of alcoholic beverages for consumption on the premises and that may or shall not serve food. This use also includes “hookah” bars in which patrons consume flavored tobacco from a stemmed instrument designed for vaporizing tobacco.

### Temporary Housing, Large<sup>1298</sup>

A dwelling where nine or more persons are living, together with staff, as a single housekeeping unit providing care, supervision, and treatment for the exclusive use of persons requiring medical, correctional, or other mandated supervision or a protective environment to avoid past or likely future violence, whose right to live together is not protected by the federal Fair Housing Amendments Act, as amended and as interpreted by the courts, and that does not meet the definition of another use in this Code. This use includes but is not limited to residential facilities for homeless persons, victims, of domestic violence, and persons exiting from or being diverted from correctional facilities.

### Temporary Housing, Small<sup>1299</sup>

A dwelling where eight or fewer persons are living, together with staff, as a single housekeeping unit providing care, supervision, and treatment for the exclusive use of persons requiring medical, correctional, or other mandated supervision or a protective environment to avoid past or likely future violence, whose right to live together is not protected by the federal Fair Housing Amendments Act, as amended and as interpreted by the courts, and that does not meet the definition of another use in this Code. This use includes but is not limited to residential facilities for homeless persons, victims, of domestic violence, and persons exiting from or being diverted from correctional facilities.

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<sup>1297</sup> Inclusion of “primarily” modifier, and inclusion of hookah bar are new.

<sup>1298</sup> New term and definition.

<sup>1299</sup> New term and definition.

### **Townhouse**

An attached single-family dwelling unit located on a platted lot and for which the individual owner may acquire title to the unit and lot. A townhouse may have an undivided common interest in the common areas including but not limited to sidewalks, open spaces, and recreational facilities and private drives.

### **Tract**

A generic term for an area of land that does not denote a specific condition. Used when speaking of both platted lots and unplatted parcels.

### **Trade or Vocational School**

An institution or facility conducting instruction in the technical or trade skills such as business, secretarial training, medical-dental technician training, beauticians, barbers, electronics, and automotive technician training.

### **Trailer, Travel**

A vehicular portable structure designed as temporary living quarters for travel, recreational, and vacation uses.

### **Transit Terminal**

A passenger terminal or loading facility for a privately or publicly owned transit system, including a private shuttle service.

### **Tributary**

A stream or watercourse, excluding manmade waterways exclusively used for irrigation, that flows into the Boise River that flows for all or a portion of the year.

### **Trucking Terminal**

An area or building where cargo is stored and where trucks, including tractors and trailer units, load, and unload cargo on a regular basis. The use may include facilities for the temporary storage of loads prior to shipment. The use shall also include truck stops serving or selling food or convenience items and fueling stations where primarily diesel fuel is sold.

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## **U**

### **University<sup>1300</sup>**

Boise State University and operations related to that University.

### **Upland Areas**

Areas within the floodplain that are not defined by the Code as wetlands or riparian areas. See also Natural Resource Functions and Values.

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<sup>1300</sup> Expanded definition.

### Urban Farm

Land used to grow plants and harvest food or ornamental crops for educational purposes, donation, and use by those cultivating the land, or for sale locally. This use includes accessory beekeeping, but does not include gardens that are accessory to a home.<sup>1301</sup>

### Utilities

Water, sewage, gas, telephone, cable television, pressure irrigation, electricity, and similar facilities normally providing individual customer service to a building site.

### Utility Facility, Major

A large facility required for the operation of a utility controlled by the Idaho Public Utilities Commission including electrical substations, major water storage reservoirs, and similar uses that are larger than those facilities needed for distribution or collection of water, sewer, electrical power, or communications from main lines or substations to individual homes or neighborhoods of the City.

### Utility Facility, Minor

A small facility required for the operation of a utility controlled by the Idaho Public Utilities Commission including minor wells, pump houses, and similar facilities primarily used to distribute or collect water, sewer, electrical power, or communications from mail lines or substations to individual homes or neighborhoods of the City.

### Utility, Public

Any person, company or municipal department that is duly authorized to furnish to the public under public regulations electricity, gas, steam, telephone, transportation, sewage/wastewater disposal, or water.

### Use

The purpose for which land or a building thereon is designed, arranged, or intended or for which it is occupied, maintained, or leased.

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## V

### Variances

A modification of the requirements of this Code as to lot size, lot coverage, lot width, street frontage, setback requirements, parking requirements, loading requirements, or other code provisions affecting the size or shape of a structure or the placement of the structure upon lots, or the size of lots.

### Vehicle, Commercial

A vehicle or trailer with a gross vehicle weight of over 8,000 pounds and designed for commercial use, construction equipment; any standard type of vehicle with commercial or industrial attachments or modifications including but not limited to lifts, tanks, spray equipment, cranes, and extension platforms used for commercial use or constructive equipment.

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<sup>1301</sup> Added current Use Table footnote 1.

#### **Vehicle Fleet Operations Center<sup>1302</sup>**

A central facility for the dispatch, distribution, storage, staging, and loading of vehicles that are owned, leased, or operated for a common purpose, with or without associated offices. Typical uses include but are not limited to ambulance service, taxi dispatch, meals-on-wheels dispatch, staging areas for shared vehicle services, and other operations that require frequent arrival and departure of cars or vans such as courier, delivery, and express services, cleaning services, key and lock services, security services, and taxi services. This use does not include a "Transit Terminal."

#### **Vehicle Repair, Major<sup>1303</sup>**

An establishment primarily engaged in vehicle repair, rebuilding, reconditioning, or mechanical servicing of motor vehicle engines, transmissions, frames, including auto body repairs, framework, welding, and major painting.

#### **Vehicle Repair, Minor<sup>1304</sup>**

An establishment primarily engaged in providing minor motor vehicle repair services such as lubrication, oil and tire changes, engine tune-ups, brake repair, tire replacement, interior and exterior cleaning and polishing, installation of after-market accessories such as tinting, auto alarms, spoilers, sunroofs, headlight covers, and similar items. This definition does not include engine degreasing or major repairs such as vehicle bodywork, painting, or repair of engines or transmissions or "Service Station."

#### **Vehicle and Equipment Sales, Rental, and Leasing, Heavy<sup>1305</sup>**

An establishment that specializes in the sale, display, lease, rental, or storage of heavy equipment including, but not limited to, tractors, trucks with a gross vehicle weight of over 10,000 pounds, semi-trucks and/or trailers, boats, recreational vehicles, and other large equipment.

#### **Vehicle Sales, Rental, and Leasing, Light<sup>1306</sup>**

An establishment that specializes in the sale, display, lease, rental, of light motor vehicles, including automobiles, vans, light trucks, and light trailers. Accessory uses may include sales of parts for, washing, and servicing of light vehicles.

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## **W**

### **Wetland**

An area that is inundated or saturated by surface or groundwater at a frequency and duration sufficient to support, and that under normal circumstances supports a prevalence of vegetation typically adapted for life in saturated soil conditions. Wetlands generally include saturated swamps, marshes, bogs, and similar areas.

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<sup>1302</sup> New term and definition.

<sup>1303</sup> New definition.

<sup>1304</sup> New definition.

<sup>1305</sup> New term and definition.

<sup>1306</sup> New term and definition.

### **Wetland, Emergent**

Characterized by erect, rooted, herbaceous hydrophytes, excluding mosses, and lichens. This vegetation is present for most of the growing season in most years. These wetlands are usually dominated by perennial plants. Other common names are "marsh" and "slough."

### **Wetland, Forested**

Wetland areas characterized by wood vegetation over 20 feet tall and possessing an overstory of trees, an understory of young trees or shrubs, and an herbaceous layer.

### **Wetland, Riparian Functions and Values**

As used in Section 11-02-07.3.B, BR-O: *Boise River System Overlay*, includes water quality protection and improvement, habitat for fisheries and wildlife, nutrient retention and removal, channel stability, food chain support, flood storage, and desynchronization, groundwater recharge and discharge, active, and passive recreation, aesthetics, and cultural resources. See also, Natural Resource Functions and Values.

### **Wetland, Scrub-shrub**

Wetland areas that are dominated by woody vegetation less than 20 feet tall. The species include true shrubs, young trees, and trees, and shrubs that are stunted because of environmental conditions. Includes types such as alder, willows, dogwood, and red maple.

### **Wholesale or Warehouse<sup>1307</sup>**

A facility that is used for the selling of merchandise to retailers; to industrial, commercial, institutional, or professional business users, or to other wholesalers; or acting as agents or brokers and buying merchandise for, selling merchandise to such individuals or companies, or the storage of merchandise, stock, vehicles, furnishings, supplies, and other trade or business material.

### **Wildland-Urban Interface (WUI-O)-Related Definitions<sup>1308</sup>**

#### **Defensible Space**

A natural or manmade area, where material capable of allowing a fire to spread unchecked has been treated, cleared, or modified to slow the rate and intensity of an advancing wildfire and to create an area for fire suppression operations to occur.

#### **Fire-resistant Vegetation**

Vegetation that resistant to the spread of fire, which generally includes but is not limited to plants with a high water content and supple, moist leaves, and plants with water-like sap, such as birch and spruce trees. This definition generally does not include resinous plants, such as spruce, pine, juniper, and fir; plants with leaves and wood containing waxes, terpenes, or oils, plants with stiff and leathery leaves, and plants with fine lacy leaves.

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<sup>1307</sup> New consolidated term and definition.

<sup>1308</sup> New terms and definitions for the new Wildland-Urban Interface Overlay.

### Flame Spread Index

A comparative measure, expressed as a dimensionless number, derived from visual measurements of the spread of flame versus time for a material tested in accordance with ASTM E 84 or UL 723. Flame spread index ratings and ranges are:

1. Class A - (0 - 25);
2. Class B - (26 - 75); and
3. Class C - (76 - 200).

### Ignition-resistant Building Material

A building material that resists ignition or sustained flaming combustion sufficiently so as to reduce losses from wildland-urban interface conflagrations under worst-case weather and fuel conditions with wildfire exposure of burning embers and small flames

### Non-combustible Building Material

4. A building material, other than a surface building material, that in the form in which it is used, is either:
  - a. A material of which no part will ignite and burn when subjected to fire, including but not limited to any material conforming to ASTM E 136; or
  - b. A material having a structural base of non-combustible material as defined in Subsection 1 above, with a surfacing material not over 1/8 inch thick, and with a flame spread index of 50 or less.
5. Non-combustible does not apply to surface finish materials.
6. Material required to be non-combustible for reduced clearances to flues, heating appliances, or other sources of high temperature must conform to Subsection 1.a above.
7. No material shall be classified as non-combustible that is subject to an increase in combustibility or flame spread index above 50 through the effects of age, moisture, or other atmospheric condition.

### Wind Energy System<sup>1309</sup>

Wind energy turbines, wind chargers, windmills, and related accessory equipment such as utility lines and battery banks, in a configuration necessary to convert the power of wind into mechanical or electrical energy.

### Wireless Communication Facility-Related Definitions

#### Antenna<sup>1310</sup>

An apparatus designed for the purpose of emitting radiofrequency (RF) signals, to be operated or operating from a fixed location for the provision of personal wireless service and any commingled information services. For purposes of this definition, the term antenna does not include an unintentional radiator, mobile station, or device authorized under 47 C.F.R. Part 15.

<sup>1309</sup> New term included in definition of "Renewable Energy Facility, Accessory."

<sup>1310</sup> Definition updated to reflect ZOA21-00004 (New WCF standards).



### Antenna Equipment

The equipment, switches, wiring, cabling, power sources, shelters, or cabinets associated with an antenna, located at the same fixed location as the antenna, and, when co-located on a structure, is added to a structure at the same time as such antenna.<sup>1311</sup>

### Broadcasting or Recording Studio<sup>1312</sup>

A building or portion of a building used as a place for radio or television broadcasting or recording but without a transmission tower.

### Eligible Facilities Request<sup>1313</sup>

An application for modification of an existing tower or base station that does not substantially change the physical dimensions of such tower or base station pursuant to Section 6409(a) of the Middle Class Tax Relief and Job Creation Act of 2012, as interpreted by the Federal Communications Commission.

### Lattice Tower

A self-supporting, multiple sided, open steel frame structure used to support telecommunications equipment.

### Monopole

A support structure that consists of a single pole sunk into the ground and/or attached to a foundation.

### Structure

For purposes of Section 11-03-03.4.C, *Wireless Communication Facilities*, a pole, tower, base station, or structure, whether or not it has an existing antenna facility, that is used or to be used for the provision of personal wireless services (whether on its own or comingled with other types of service).<sup>1314</sup>

### Strand-Mounted Facility<sup>1315</sup>

An attached wireless communication facility installed upon a cable strand in coordination with a utility provider.

### Transmission Tower<sup>1316</sup>

A structure in a fixed location used as an antenna or to support antennas for the primary purpose of transmitting and/or receiving electronic signals. This definition includes nonresidential broadcast, communication, transmission, and similar towers, either freestanding or attached to an adjacent broadcasting or transmitting facility.

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<sup>1311</sup> New term and definition from ZOA21-00004 (New WCF standards).

<sup>1312</sup> New term and definition from ZOA21-00004 (New WCF standards).

<sup>1313</sup> New term and definition from ZOA21-00004 (New WCF standards).

<sup>1314</sup> New definition from ZOA21-00004 (New WCF standards).

<sup>1315</sup> New term and definition from ZOA21-00004 (New WCF standards).

<sup>1316</sup> New term and definition from ZOA21-00004 (New WCF standards).

### Wireless Communications Facility (WCF)

An unstaffed facility for the transmission and reception of radio or microwave signals used for commercial communications or providing personal wireless services as defined in the Federal Telecommunications Act of 1996 that includes Federal Communications Commission licensed commercial wireless telecommunications services including cellular, personal communications services (PCS), specialized mobile radio (SMR), enhanced specialized mobile radio (ESMR), paging, and similar services that currently exist or that may in the future be developed. A WCF is composed of two or more of the following components:

1. Antenna;
2. Support structure;
3. Equipment enclosure;
4. Security barrier.

### Wireless Communication Facility, Attached (Attached WCF)

An antenna array attached to an existing or replaced structure without exceeding the base height of the zoning district. Such structures shall include but are not limited to utility poles, signs, steeples, cupolas, water towers, and antennas attached to the exterior facade of a building.

### Wireless Communication Facility, Freestanding (Freestanding WCF)

A WCF that includes a new support structure or otherwise is not an Attached WCF as defined in this section.

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## X

### Xeriscaping<sup>1317</sup>

Xeriscaping incorporates water-conserving designs that take into account soil and drainage factors, microclimates, grouping of plants with similar water requirements, efficient irrigation systems, native vegetation, paving permeability, and low-water-using and drought tolerant vegetation. Xeriscape landscaping is not boulders, rocks, gravel or any artificial plants nor shall "xeri" be interpreted to mean zero.

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## Y

### Yard

An open space on the same lot with a primary building or group of buildings, that is unoccupied and unobstructed from its lowest level upward, except as otherwise permitted in this Code, and that extends along a lot line and at right angles to the lot line to the nearest building facade of a primary or accessory building regardless of whether the distance between the lot line and building facade is larger than the required setback.

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<sup>1317</sup> New.

## Z

### Zero Lot Line Development

Single-family dwellings arranged on individual lots as either detached structures with one or more side walls on a side property line or attached sidewalls on a property line.

### Zoning Certificate

A notation attached to a Building Permit, occupancy permit, or business license or that is issued separately by the city, certifying that the building, structure, use, or occupancy specified is in compliance with this Code and prior development approvals.

### Zoning Code<sup>1318</sup>

The latest version of that ordinance adopted by City Council including a consolidated set of zoning and subdivision controls for the city, as amended from time to time by City Council, also referred to as “this Code.”

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<sup>1318</sup> New.

## Chapter 11-07 Adopted Specific Plans

[No changes are proposed to the Harris Ranch, Barber Valley, and Syringa Valley. These plans are available for review on the City's website.]